



STATE REGISTER

STATE OF MINNESOTA

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PROPOSED RULES
STATE CONTRACTS
OFFICIAL NOTICES

VOLUME 3, NUMBER 18

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STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 3			
19	Monday Oct 30	Friday Nov 3	Monday Nov 13
20	Monday Nov 6	Monday Nov 13	Monday Nov 20
21	Monday Nov 13	Friday Nov 17	Monday Nov 27
22	Monday Nov 20	Monday Nov 27	Monday Dec 4
23	Monday Nov 27	Monday Dec 4	Monday Dec 11

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in this issue of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* will be published on a quarterly basis and at the end of the volume year.

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The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption as proposed and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.



W. F. "Billy" Williams (1877-1963) worked as Minnesota governor's aide for 53 years, serving 14 governors. Born in St. Paul, Williams started as a professional baseball player in the Minnesota and Wisconsin state leagues. In 1903 he turned down a contract with the Baltimore Orioles' International League to accept the post of aide to Governor John A. Johnson. The 1955 *Legislative Manual*, dedicated to Williams, spoke of a "unique blend of tact, friendliness and understanding" that helped him solve the problems inherent in his job. His biography, *Billy Williams, Minnesota's Assistant Governor*, by Morris Britts, was published in 1976. (Drawing by Ric James)

Department of Commerce Insurance Division

Adopted Rule Relating to Legible Type Face Styles

The rule INS 150, proposed and published at *State Register*, Volume 2, Number 38, pp. 1782-1783, March 27, 1978 (2 S.R. 1782), is adopted and is identical to its proposed form with the exception that the rule has been renumbered as Ins 195.

Energy Agency

Adopted Rules Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Fuel Conversion Facilities, Coal Slurry or Coal Liquids Pipelines, Nuclear Fuel Processing Facilities, and Nuclear Waste Storage or Disposal Facilities

The proposed rules published at *State Register*, Volume 2, Number 39, pp. 1805-1825, April 3, 1978 (2 S.R. 1805), are adopted as of September 22, 1978, with the following amendments:

Rules as Adopted

6 MCAR § 2.1101 Purpose of rules. The purpose of these rules is to specify the contents of applications for certificates of need and to specify criteria for assessment of need pursuant to Minn. Stat. § 116H.13 for fuel conversion facilities, coal slurry or coal liquids pipelines, nuclear fuel processing facilities, and nuclear waste storage or disposal facilities; and all other large energy facilities not specifically covered by 6 MCAR §§ 2.0601-2.0641, 2.0701-2.0791, 2.0801-2.0881, 2.0901-2.0981, or 2.1001-2.1091.

6 MCAR § 2.1102 Applicability of rules.

A. Each person applying for a certificate of need to construct one of the following types of large energy facilities pursuant to these rules shall provide all information required by these rules:

1. a new fuel conversion facility;

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2. any project which, within a period of two years, would expand the design capacity expansion of an existing fuel conversion facility by at least 25 tons per hour of input material over the base capacity of the facility;

3. a new coal slurry or coal liquids pipeline;

4. any project which, within a period of two years, would expand the design throughput expansion of an existing coal slurry pipeline by at least 1000 tons of coal or coal derivatives per day over the base capacity of the facility;

5. any project which, within a period of two years, would expand the design throughput expansion of an existing coal liquids pipeline by at least 15,000 barrels per day over the base capacity of the facility;

6. a new nuclear fuel processing facility;

7. any project which, within a period of two years, would expand the design output expansion of an existing nuclear fuel processing facility by at least 20 percent of the base capacity of the facility;

8. a new nuclear waste storage or disposal facility; and

9. any project which, within a period of two years, would expand the design capacity expansion of an existing nuclear waste storage or disposal facility by at least 20 percent of the base capacity of the facility;

10. any large energy facility or equivalent expansion other than those given by 6 MCAR § 2.1102 A. 1. through 9. or specifically covered by 6 MCAR §§ 2.0601-2.0641, 2.0701-2.0791, 2.0801-2.0881, 2.0901-2.0981, or 2.1011-2.1091.

6 MCAR § 2.1103 Application procedures and timing.

B. A minimum of seven (7) bound copies and one (1) unbound copy of the application shall be filed with the director for use by the director and the Agency staff. The director may shall require additional copies, not to exceed one hundred (100) copies total, to supply other governmental authorities, potential intervenors, and libraries designated as distribution points for public use. The director shall provide for the record at the hearing a list indicating the distribution of the additional copies. All documents, forms, and schedules filed with the application shall be typed on 8 1/2" x 11" paper except for drawings, maps, and similar

materials. Each application shall contain a title page and a complete table of contents which includes the applicable rule by the titles and numbers given in these rules. The date of preparation and the applicant's name shall appear on the title page, as well as on each document filed with the application.

H. Prior to the submission of an application, a person shall ~~may~~ be exempted from any data requirement of these rules upon a written request to the director for exemption from specified rules and a showing by that person in the request that the data requirement (1) is unnecessary to determine the need for the proposed facility or (2) may be satisfied by submission of another document. A request for exemption shall be filed at least 20 days prior to submission of an application. The director shall respond in writing to each such request within 15 days of receipt, including reasons for the decision. The director shall file a statement of exemptions granted and reasons therefor prior to commencement of the hearings.

6 MCAR § 2.1104 Definitions. For purposes of these rules, the following definitions shall apply:

O. "Fuel conversion facility" means any facility intended to convert coal, peat, wood, or any other material, excepting fissile, fertile, or fissionable nuclear material, into another combustible fuel and having the capacity to process 25 tons (22.7 metric tons) of the material per hour at its peak capacity. A fuel conversion facility shall include any storage facility ~~on the site~~ needed for operation of the facility at the design capacity. A coal-cleaning or coal-agglomerating facility shall not be considered a fuel conversion facility unless its operation causes a change in the molecular structure of the input coal;

W. "Nuclear waste storage or disposal facility" means any facility designed for or capable of serving as a temporary or permanent depository for radioactive or associated nonradioactive wastes produced by a nuclear reactor or a nuclear fuel processing facility, including any burial ground for low-level radioactive wastes;

CC. "Substantially complete application" means an application which is deemed by the director to be in substantial compliance with the information requirements of these rules; and

DD. "Ton" means 2000 pounds (907.2 kilograms); and

EE. "Base capacity" means either (1) the capacity or throughput of a large energy facility as of the effective date

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

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of these rules, (2) the capacity or throughput of a certified new large energy facility, or (3) if a large energy facility has been expanded since the effective date of these rules, the capacity or throughput of the facility following the most recent certified expansion.

6 MCAR § 2.1111 Criteria for assessment of need.

A. Purpose of the criteria. The criteria for assessment of need shall be used by the director in the determination of need for each proposed large energy facility which is subject to these rules. The factors listed under each of the criteria set forth herein at 6 MCAR § 2.1111 C. shall be evaluated to the extent that the director deems them applicable and pertinent to each facility proposed pursuant to these rules. The director shall make a specific written finding with respect to each of the criteria. In the case of an application for a certificate of need for an expansion of a nuclear waste storage or disposal facility serving an existing large electric generating facility, the director shall not make a decision which could reasonably be expected to result in a forced shutdown of the generating facility.

6 MCAR § 2.1121 Contents of application.

A. An application for a certificate of need shall provide all information required by 6 MCAR §§ 2.1131 through 2.1135 and, optionally, 2.1186. An application shall also provide information for specific types of facilities as indicated below.

5. An applicant for any facility other than those listed in 6 MCAR § 2.1121 A. 1. through 4. or specifically covered by 6 MCAR §§ 2.0601-2.641, 2.0701-2.0791, 2.0801-2.0881, 2.0901-2.0981, or 2.1011-2.1091 shall refer to 6 MCAR § 2.1181 for the additional information required.

6 MCAR § 2.1141 Description of proposed fuel conversion facility. Each application for a fuel conversion facility shall contain the following information:

C. data regarding operation of the facility, including:

2. the types and sources of input materials that would be processed by the facility and the estimated energy content of each in Btu per appropriate unit of measure;

3. the types of output products, the amount of each, and the estimated energy content of each in Btu per appropriate unit of measure;

6 MCAR § 2.1144 Environmental data. Each applicant shall provide environmental data for the proposed facility and for each alternative facility described in response to 6 MCAR § 2.1142. The following information relating to construction and operation of each of these facilities shall be provided, to the extent that such information is reasonably

available to the applicant and applicable to the particular alternative:

A. a description of each alternative site, including:

11. areas within five miles of the site designated by regional or local authorities as having recreational, cultural, historical, or scientific significance, as indicated by local units of government;

6 MCAR § 2.1149 Environmental data. Each applicant shall provide environmental data for the proposed facility and for each alternative facility described in response to 6 MCAR § 2.1147. Environmental data for each pipeline considered shall conform to the format given in subdivisions A. through D. of 6 MCAR § 2.1149. Environmental data for any other alternative shall include a list of the natural and cultural resources, as given in items 7. through 12. of 6 MCAR § 2.1149 A., that would be directly affected, and a discussion of those applicable areas of environmental concern that are detailed in subdivisions B. through D. of 6 MCAR § 2.1149. The applicant shall provide:

C. data regarding pollution control and safeguards equipment, including:

4. for a coal slurry pipeline, a description of the procedure in case of electrical outage at one or more pump stations or cessation of slurry movement for any reason;

45. any other equipment or measures, including noise control or erosion control, that would be used to reduce the impact of the facility; and

56. the types of environmental monitoring that are planned for the facility, if any, and a description of any relevant environmental monitoring data already collected; and

6 MCAR § 2.1151 Description of proposed nuclear fuel processing facility. Each application for a nuclear fuel processing facility shall contain the following information:

C. data regarding operation of the facility, including:

2. the types, amounts, and sources and amounts of input materials that would be processed by the facility during operation at the design capacity, including uranium, plutonium and structural metals in tons per year and fission product nuclides in curies per year and the method(s) of transporting these materials to the facility;

3. the types and amounts of output materials from the processing facility during operation at the design capacity and the method(s) of transporting or disposing of these materials;

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5. the methods that would be used to transport materials to and from the facility;

56. the projected types and amounts of energy products that would be consumed during operation at the design capacity;

67. the expected average percentage of use of the full design capacity for each of the first five calendar years of operation; and

78. a discussion of the maintenance requirements of the facility, including the estimated impact on production.

6 MCAR § 2.1152 Alternatives. Each application for a nuclear fuel processing facility shall contain a description of alternatives available to the applicant which differ significantly from the proposed facility with respect to location, size, timing, or design. The description of each alternative shall include the following information, if applicable:

H. the sources and amounts of input materials that would be processed by the facility, including uranium, plutonium, structural metals and fission products, and the products that would be produced;

6 MCAR § 2.1154 Environmental data. Each applicant shall provide environmental data for the proposed facility and for each alternative facility described in response to 6 MCAR § 2.1152. The following information relating to construction and operation of each of these facilities shall be provided, to the extent that such information is reasonably available to the applicant and applicable to the particular alternative:

A. a description of each alternative site, including:

12. areas within five miles of the site designated by regional or local authorities as having recreational, cultural, historical, or scientific significance, as indicated by local units of government; and

13. the estimated total population within fifty miles of the site, and a map showing the distribution of the population within fifty miles of the site;

6 MCAR § 2.1159 Environmental data. Each applicant shall provide environmental data for the proposed facility and for each alternative facility described in response to 6 MCAR § 2.1157. The following information relating to construction and operation of each of these facilities shall be

provided to the extent that such information is reasonably available to the applicant and applicable to the particular alternative:

12. areas within five miles of the site designated by regional or local authorities as having recreational, cultural, historical, or scientific significance, as indicated by local units of government; and

13. the estimated total population within fifty miles of the site, and a map showing the distribution of the population within fifty miles of the site;

§ 2.1181 Other facilities.

A. Any applicant for certification of a large energy facility other than those specifically covered by the foregoing rules or by other Agency rules (that is, 6 MCAR §§ 2.0601-2.0641, 2.0701-2.0791, 2.0801-2.0881, 2.0901-2.0981, or 2.1001-2.1091) shall comply with this rule as to substantive content of the application. The need for that facility will be assessed by the criteria stated in 6 MCAR § 2.1111.

B. An application submitted pursuant to this rule shall contain at least four data sections in addition to the information required by 6 MCAR § 2.1121 A. Those sections shall be, respectively, a description of the proposed facility, a description of alternatives to the proposed facility, historical and forecast data, and environmental data. The specific data requirements shall be requested of the director by the prospective applicant in a written request which shall contain a general description of the proposed facility. The director shall respond to the request within 30 days of receipt by supplying to the prospective applicant an express listing of the specific data requirement for the four sections. Following receipt of that listing, the prospective applicant may elect to follow the provisions of 6 MCAR § 2.1103 H.

§ 2.1191 Certificate of need modifications.

A. Issuance of a certificate of need may be made contingent upon modifications specified by the director.

B. The following changes in a facility previously certified by the director shall not require recertification:

1. capacity additions or subtractions of less than ten (10) percent of the capacity approved by the director; and

2. changes of less than two years in the in-service date.

C. If an applicant determines that a change greater or

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other than those specified by 6 MCAR § 2.1191 B. is necessary or desirable, it shall inform the director of the desired change, accompanied by a written statement detailing the reasons for the proposed change. The director shall evaluate these reasons and within 45 days of receipt of said statement notify the applicant whether the proposed change is acceptable without recertification:

Department of Labor and Industry Occupational Safety and Health Division

Adoption by Reference of Federal OSHA Standards

Pursuant to Minn. Stat. § 182.655 (1976), notice was duly published in the *State Register*, Volume 3, No. 6, pp. 213-214, August 14, 1978 (3 S.R. 213), specifying the establishment and modification of certain Occupational Safety and Health Standards. No written comments or requests for hearing on objections have been received concerning the adoption of said standards.

Therefore, those Occupational Safety and Health Standards are hereby adopted and are identical in every respect to their proposed form.

E. I. Malone
Commissioner

Department of Natural Resources

Adopted Rules Regarding Wildlife Exhibits

The rule proposed and published at *State Register*, Volume 1, Number 41, pp. 1517-1521, April 18, 1977 (1 S.R. 1517) is now adopted with the following amendments:

NR 400 500 Wildlife exhibits.

A. Purpose. The purpose of ~~these rules and regulations~~ this rule is to establish reasonable standards for the care and treatment of captive wildlife for public exhibition purposes,

and a permit system for such display, pursuant to the legislative mandate contained in Minn. Stat. § 97.611.

B. Jurisdiction. ~~These rules and regulations~~ This rule shall apply to the care and treatment of all living captive wildlife for public exhibition in connection with any commercial enterprise, excluding displays owned by any municipality, county, or the State of Minnesota, any publicly owned zoo or wildlife exhibit, any privately owned traveling zoo or circus, or any pet shop.

C. Severability. The provisions of ~~these rules and regulations~~ this rule shall be severable, and the invalidity of any paragraph, subparagraph, or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

D. Definitions. For the purpose of ~~these rules and regulations~~, this rule, the terms defined in this section have the meaning given them below:

1. "Wildlife" means any wild mammal, wild bird, reptile, or amphibian.

2. "Captive" means all forms of human control including but not limited to confinement within physical barriers, limitation of movement through the use of any manner of attachment physically affixed to any wildlife, or limitation of movement of wildlife by restraining in some manner the parent or offspring.

3. "Public exhibition in connection with any commercial enterprise" means any exhibition or display from which monetary gain is procured either directly or indirectly, including but not limited to any display or exhibition, the viewing of which is offered for a fee to the public, any display or exhibition which tends to attract customers to any business operated by the owner of such display or exhibition, or any business operated by a client or relative of the owner of such display or exhibition, or any live display used for advertising purposes.

4. "Pet shop" means any commercial business venture, including a game farm, where animals are displayed only for the purpose of the sale of the animals so displayed.

5. "Traveling zoo or circus" means any display or exhibit of wildlife alone or in combination with domestic animals which does not remain in any one county for more than one month at a time, nor make consecutive engagements at the same location.

6. "Commissioner" is Commissioner of the Department of Natural Resources, State of Minnesota, acting directly or through his authorized agents.

E. Permit.

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1. No person shall display captive wildlife under the jurisdiction of ~~these rules, this rule,~~ in this state unless such display is pursuant to and in compliance with a permit acquired from the Commissioner of Natural Resources. Application for such a permit shall be made on forms provided by the Commissioner and shall be mailed or delivered to the Department of Natural Resources, Regional Supervisor, Division of Enforcement.

2. After receipt of the application, the local conservation officer will inspect the premises, and a permit will be issued only after applicant complies with or agrees to comply with standards for wildlife exhibits as described in this ~~order.~~ rule.

3. No permit issued under ~~these rules~~ this rule shall be transferable.

F. Knowledge and background of caretakers.

1. The applicant must be at least 18 years of age and shall demonstrate that he or his employee who is primarily responsible for the care of the wildlife ~~should possess either a Bachelor's degree in animal husbandry or similar wildlife related course of study; or have at least three years of active work experience with wildlife of the nature to be displayed under the permit.~~ knows how to care for the involved species properly.

2. ~~In lieu of such requirements as are listed in the preceding subdivision,~~ If he or his employee does not have such knowledge, the applicant may arrange for a regular ~~monthly~~ semiannual visit to his display and housing facility by a licensed veterinarian who shall certify by mail to the Commissioner on forms provided, that to the best of his knowledge, all requirements of the permit are being complied with and that any suggestions that he could make to substantially improve the living conditions within the general limits of said permit are being or have been accomplished.

3. In the event that the knowledge or background of an employee is deemed by the Commissioner to be sufficient to satisfy this requirement for said permit, the applicant shall apply for an amendment to such permit before the termination of the employment of said employee or as soon thereafter as possible, setting forth the qualifications of a new caretaker if neither the permit holder nor another employee has previously been accepted as qualified. If said amendment is not granted by the Commissioner, the permit will terminate concurrently with the denial of said amendment or the termination of the employment of the qualified employee, whichever is later.

G. Facilities and operating standards.

1. Facilities, general.

(~~a~~) a. Structural strength. The facility must be constructed of such material and of such strength as appropriate for the animals involved. The housing facilities shall be structurally sound and shall be maintained in good repair to protect the animals from injury and to contain the animals.

(~~b~~) b. Water and power. Reliable and adequate electric power, if required to comply with other provisions of this permit, and adequate potable water shall be available on the premises.

(~~c~~) c. Storage. Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against deterioration, molding, or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(~~d~~) d. Waste disposal. Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards. ~~The disposal facilities and any disposal of animal and food wastes, bedding, dead animals, trash, and debris shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.~~

2. Facilities, indoor.

(~~a~~) a. Ambient temperatures. Temperature in indoor housing facilities shall be sufficiently regulated by heating or cooling to protect the animals from the extremes of temperature to provide for their health and to prevent their discomfort. The ambient temperature shall not be allowed to fall below nor rise above temperatures compatible with the health and comfort of the animal.

(~~b~~) b. Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health and to prevent discomfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, fans, or air-conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation.

(~~c~~) c. Lighting. Indoor housing facilities shall have ample lighting, by natural or artificial means, or both, of good quality, distribution, and duration as appropriate for

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the species involved. Such lighting shall be uniformly distributed and of sufficient intensity to permit routine inspection and cleaning. Lighting of primary enclosures shall be designed to protect the animals from excessive illumination.

(d) d. Drainage. A suitable sanitary method shall be provided to eliminate rapidly, excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors and installed so as to prevent any backup of sewage. ~~The method of drainage shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.~~

3. Facilities, outdoor.

(a) a. Shelter from sunlight. When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

(b) b. Shelter from inclement weather. Natural or artificial shelter appropriate to local climatic conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection and to prevent discomfort to such animals. Individual animals shall be acclimated before they are exposed to the extremes of the individual climates.

(c) c. Drainage. A suitable method shall be provided to rapidly eliminate excess water. ~~The method of drainage shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.~~

4. Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavior patterns. ~~As a general standard for mammals, the horizontal dimensions of any cage or other enclosure shall be at least four times the length of the animal to be kept therein, and the vertical dimensions shall be at least twice the height of the animal.~~

H. Animal health and husbandry.

1. Feeding.

(a) a. The food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration of the age, species, condition, size, and type of the animal. Animals shall be fed

at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

(b) b. Food, and food receptacles, if used, shall be sufficient in quantity and located so as to be accessible to all animals in the enclosure and shall be placed so as to minimize contamination. Food receptacles shall be kept clean and sanitary at all times. If self-feeders are used, adequate measures shall be taken to prevent molding, contamination, and deterioration or caking of food.

2. Watering. If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of watering shall consider age, species, condition, size, and type of the animal. All water receptacles shall be kept clean and sanitary.

3. Sanitation.

(a) a. Cleaning of enclosures. Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors. (When enclosures are cleaned by hosing or flushing, adequate measures shall be taken to protect the animals confined in such enclosures from being directly sprayed with the stream of water or wetted involuntarily.)

(b) b. Sanitation of enclosures. Subsequent to the presence of an animal with an infectious or transmissible disease, cages, rooms, and hard-surfaced pens or runs shall be sanitized either by washing them with hot water (180 F. at source) and soap or detergent, as in a mechanical washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with saturated live steam under pressure. Pens or runs using gravel, sand, or dirt, shall be sanitized when necessary as directed by the attending veterinarian.

(c) c. Housekeeping. ~~Premises (buildings and ground~~ Areas in which animals are kept shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Accumulations of trash shall be placed in designated areas and cleared as necessary to protect the health of the animals.

(d) d. Pest control. A safe and effective program for the control of insects, ectoparasites (such as flies, ticks, and fleas), and avian and mammalian pests shall be established and maintained.

4. Separation. Animals housed in the same primary enclosure must be compatible. Animals should not be

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housed near animals that interfere with their health or cause them discomfort.

5. Veterinary care.

(a) a. Programs of disease prevention and parasite control, euthanasia, and adequate veterinary care shall be established and maintained under the supervision of a licensed veterinarian. The pest control program shall be reviewed by the veterinarian for the safe use of materials and methods. Animals subject to rabies or distemper (skunks, raccoons, and members of the dog and cat families) shall receive vaccinations against these diseases by a licensed veterinarian, and records of this vaccination program shall be kept on the premises and made available to conservation officers at all reasonable times.

(b) b. Animals shall be observed every day by the person in charge of the care of the animals or by someone working under his direct supervision. Sick or diseased, stressed, injured, or lame animals shall be provided with veterinary care or humanely destroyed.

6. Handling.

(a) a. Handling of animals shall be done expeditiously and carefully in a way so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal. Care should be exercised also to avoid harm to the handler.

(b) b. Animals to which within reach of the public is afforded direct contact shall only be displayed for periods of time and under conditions consistent with the animals' health and not leading to their discomfort.

(c) c. During public display, the animals must be handled so there is minimal risk of harm to the public with sufficient distance allowed between animal acts and the viewing public to assume safety to both the public and the animals.

I. Permit fee.

1. The fee for a permit shall be \$10 which shall be submitted with the original application and every amendment and annual renewal thereof.

2. Such fee will be returned in the event the permit, or the amendment thereof, applied for is denied or in the event the permittee does not accept the permit as issued with conditions.

3. The permit shall be renewed annually.

~~J. Amendments. Any permit granted by the Commissioner under these regulations must be amended, to continue the display of wildlife, through the same procedures as the original application, in the event of any substantial increase in the numbers of wildlife, any changes in species, or any substantial change in the facilities.~~

~~1. For the purpose of this section a "substantial increase in the numbers of wildlife" is any increase equal to or greater than the following:~~

~~(a) 10% of the originally permitted number if introduced from outside the displayed wildlife or if introduced into the exhibit by natural birth of offspring occurring as a result of mating among wildlife not kept together pursuant to permit.~~

~~(b) 25% of the originally permitted number, if introduced into the exhibit by natural birth of offspring occurring as a result of mating among wildlife kept together pursuant to permit.~~

~~2. For the purposes of this section a "change in species" is any change in the biological "species" of the wildlife displayed, or any introduction of another of the same "species" that may not be harmonious with the permitted wildlife.~~

~~3. For the purposes of this section a substantial change in the facilities involved shall include any change in the confinement area or shelter area, any change in the primary materials used in the construction of the confinement area or shelter, any change not directed by a licensed veterinarian, in the nature or amount of food and water offered to each animal displayed, and any change in the conditions specifically required by the permit.~~

~~4. Fur-bearing animals, game birds, and deer may not be propagated except under a valid game farm license.~~

~~K. J. Review of permit decisions. If the permit is granted with conditions, or is denied, the applicant may, within 30 days after mailed notice thereof, file with the Commissioner of Natural Resources a demand for review of the application. The review shall be conducted as a contested case pursuant to Minn. Stat. ch. 15. If no demand for review is made within the 30 days, the permit decision becomes final.~~

~~L. K. Revocation. The Commissioner of Natural Resources may at any time revoke all or part of any permit~~

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issued under ~~these rules~~ this rule under the following conditions, whenever, in his opinion, it is necessary to protect the interests of the public, or to protect the wildlife covered by said permit:

1. The permit holder must be informed in writing of the nature of the revocation and of the conditions which in the commissioner's opinion require such revocation at least 14 days prior to the effective date of the revocation.

2. The permit holder, at any time prior to revocation, shall have the opportunity to apply for an amendment to his permit or to demand a hearing pursuant to Section ~~K~~ J. of this ~~chapter~~ rule to contest the revocation, support his proposed amendment, or both.

~~(a)~~ a. Upon receipt of such an application or demand, the revocation is stayed until a determination by the Commissioner can be made on the matter.

~~(b)~~ b. If no such application or demand be made, the permit shall be revoked on the date stated in the revocation notice.

3. Nothing in this section shall preclude legal action by the Commissioner at any time for injunctive relief from a permit violation pursuant to Minn. Stat. § 97.611, subd. 4. All costs associated with seizures of neglected or mistreated animals shall be borne by the owner thereof (~~permit holder~~) including the expenses of keeping, disposing of, and treating animals pursuant to Minn. Stat. § 346.216.

~~M~~ L. Disclaimer. Any permit issued under the provisions of ~~these rules and regulations~~ this rule is permissive only and no liability shall be incurred by the state or by any of its officers, agents, or employees by reason of the issuance of such permit or by reason of any acts or operations of the permittee or any wildlife. At all times, the State of Minnesota, its officers, agents and employees shall be held harmless from any liability for damage or injury arising from the issuance of such permit.

~~N~~ M. Penalty. Anyone who violates any provision of ~~these rules and regulations~~ this rule or any provision of a permit issued hereunder shall be guilty of a misdemeanor.

Department of Public Welfare Social Services Bureau Adopted Rule Governing the Allocation of Title XX Funds to County Welfare and Human Service Boards

The proposed rule published at *State Register*, Volume 2, Number 37, pp. 1751-1755, March 20, 1978 (2 S.R. 1751) is now adopted with the following amendments:

Rule as Adopted

DPW 162 Allocation of Title ~~XX~~ Funds to county welfare and human services boards.

A. Introduction.

2. The federal financial participation governed by the rule is limited to Minnesota's share of the amount authorized and appropriated by Congress each year to carry out the programs of Title XX less an amount ~~determined necessary by the Commissioner of Public Welfare for equal to the state administrative expenses, special projects, and state-administered purchase of service contracts as determined by the Commissioner of Public Welfare or mandated by the Minnesota State Legislature.~~

3. In the event the Congress authorizes and appropriates any additional funds to carry out the general purposes or specialized purposes of Title XX of the Social Security Act, the Department of Public Welfare shall use ~~this the~~ the method established in subdivisions B., C., and D. of this rule to determine the amount of such additional federal financial participation for which each local social services agency may claim reimbursement during the program year or years for which such funds are intended.

4. This rule does not govern Title XX funds authorized and appropriated by the ~~federal~~ Congress for staff development and Southeast Asian Refugee Programs.

B. Allocation procedures.

1. ~~To determine the~~ The total amount of Title XX funds; available to the counties; the Commissioner of Public Welfare shall first determine the amount of to which the formula in part C. of this rule shall be applied, shall be determined by subtracting from the total general or supplemental Title XX funds that are necessary for an amount

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equal to the state administrative expenses, special projects, and state-administered purchase of service contracts. The formula in part C of the rule is then applied to the balance to determine each local social service agency's allocation, as determined by the Commissioner of Public Welfare or mandated by the Minnesota State Legislature.

2. By April 1 of each year, the State Agency shall advise each local social services agency of the amount of federal participation it may claim reimbursement for during its allocation for the program year beginning the following October 1.

3. Counties administratively organized under a multi-county human services board or joint county welfare board may receive an allocation equal to the sum of the allocations each separate county is entitled to under this formula, if separate data is routinely reported to the State Agency, or an allocation based on combined data, if such is routinely reported to the State Agency.

4. The formula in part C. of this rule becomes effective as of January 1, 1979. The first year computation shall be for the period of January 1, 1979, through September 30, 1979. For every program year thereafter, the full program year applies.

5. Protection factor.

This section of the rule provides a protection factor for counties whose allocations will be reduced as a result of the implementation of the rule, identifies the source of funds for the protection factor and specifies the method of calculation of the protection factor.

a. For the period of January 1, 1979, through September 30, 1979 (3/4 of the program year), no county shall receive a reduction greater than 7.5% of the previous full program year's allocation. For the period of October 1,

1979, through September 30, 1980, no county shall receive a reduction greater than 10% of the previous year's allocation. For the period of October 1, 1980, through September 30, 1981, no county shall receive a reduction greater than 10% of the previous year's allocation. Thereafter, no reduction percentages apply.

b. No county shall receive less than the smaller of the amount calculated pursuant to the formula in part C. of this rule or the amount allocated for the period October 1, 1977, through September 30, 1978.

c. The monies required to provide the protection granted in paragraphs B.5.a. and B.5.b. of this rule will be obtained by reducing the allocation to all counties not covered by this protection. The reduction shall be a common percentage computed by dividing the total protection amounts determined in paragraphs B.5.a. and B.5.b. by the total allocations to the nonprotected counties derived from the formula in part C.

C. Formula.

1. The method by which the State Agency determines each county's Title XX allocation shall be a formula comprised of the following factors:

a. County Public Assistance Factor: A mathematical value which represents an unduplicated count of the county's total population receiving Aid to Families with Dependent Children (AFDC), Supplement Security Income (SSI), Minnesota Supplemental Aid (MSA), and Medical Assistance (MA), in proportion to the state's total population receiving public assistance through these programs, as determined by the latest available data from the Department of Public Welfare. The term "unduplicated count" means that each recipient is counted only once even if receiving assistance under more than one of the programs listed above.

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The distinctive rust and black coloration that makes the monarch butterfly identifiable to nature-watchers also warns predators to avoid the insect's unpleasant taste. The monarch is found throughout the world, but is concentrated mainly in North, Central and South America. Each autumn, thousands of the butterflies gather to migrate south, sometimes over 1,800 miles or more. They lay eggs on the way back in the spring, then die, leaving the new generation to continue the trip northward. (Drawing by Judy Dale Galchutt, courtesy of Hennepin County Park Reserve District)

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new or amended rule. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Economic Security Vocational Rehabilitation Division

Proposed Rules Governing Services to Persons with Severe Disabilities Through Long Term Sheltered Workshops and Work Activity Programs

Notice of Hearing

Notice is hereby given that a public hearing will be held on the above-titled matter in Room 112 of the State Capitol on December 9, 1978 starting at 9:30 a.m. and continuing until all interested or affected persons have had an opportunity to participate.

The hearing will be held before Allan W. Klein, Hearing Examiner. These proposed rules are issued pursuant to Minn. Stat. §§ 121.71-121.714. All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed amendments to the rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be

submitted without personally appearing at the hearing, by mailing them to the Hearing Examiner at the Office of Hearing Examiners, 1745 University Ave., St. Paul, MN 55104.

Notice is hereby given that 25 days prior to the hearing a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the public hearing, written material may be submitted and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

Notice: Any person may request notification of the date on which the Hearing Examiner's report will be available after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's report) or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

These proposed rules amend existing rules contained in Chapter 25 (Minn. Rules EDU 480-499). These proposed

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changes will do several things: a) reflect the fact that the Vocational Rehabilitation program is now organizationally part of the Department of Economic Security; b) make minor changes in existing rules; c) add new language which will provide a means for long term sheltered workshops to appeal decisions regarding certification by the Division; d) add new language establishing standards which workshops must adhere to for continuing their certification, such standards dealing with personnel matters, including job descriptions, wages, reimbursable expenses, vacation and other leaves, lay-offs, dismissal and several others. Most likely affected parties are long term sheltered workers, organizations of and for disabled persons, sheltered workshop administrators and managers.

Copies of the proposed rule amendments are now available and one free copy may be obtained by writing to the Department of Economic Security, Division of Vocational Rehabilitation, Space Center, 444 Lafayette Road, St. Paul, Minnesota 55101.

Under Minn. Stat. § 10A.01, subd. 11 (1976), a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute, "lobbyist" means any individual engaged for pay or other consideration or authorized by another individual or association to spend money who spends more than five hours of any month or more than \$250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or who spends more than \$250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. "Lobbyist" does not include any: (a) public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity; (b) party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action; (c) individual in the course of selling goods or services to be paid for by public funds; (d) news media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action; (e) paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or (f) stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not

spend over \$250, excluding travel expenses, in any year in communicating with public officials.

Questions regarding lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55101, telephone (612) 296-1720.

Michael O'Donnell
Commissioner

Rules as Proposed

~~EDU 480 8~~ **MCAR § 4.2001** **Definitions.** Unless otherwise indicated in these regulations, the terms below are defined as follows:

A. "Act" means ~~Rehabilitation Services for the Severely Disabled, Minn. Stat. §§ 121.71 to 121.714~~ the federal Rehabilitation Act of 1973; 29 U.S.C. § 701 to 794.

B. "Administrator" means the director of community long-term sheltered workshop programs.

C. "Commissioner" means the Commissioner of ~~education on the state department of education.~~ Economic Security in the Department of Economic Security.

D. "Workshop" means a long-term sheltered workshop.

E. "Long-Term Sheltered Employment Program" means the provision of paid employment for an indefinite period of time, for severely handicapped persons unable to meet production standards required in competitive employment. The wages paid in long-term sheltered employment are ~~in excess of~~ 25 percent or more of the applicable minimum wage.

F. "Work Activity Program" means the provision of purposeful activity, having a productive or work component for which wages are paid, but where the level of productivity is less than that required in sheltered employment (generally 25 percent of the applicable minimum). The work activity program may be transitional in nature or may be considered as an appropriate outcome.

G. "Work Component Program" means a cooperative effort involving two distinct organizations working under an agreement for the purpose of providing clients with work on a limited scale.

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~~G.~~ H. "Commensurate wage" means a rate of pay which, when paid to a nonhandicapped worker performing the same kind and quality of work, would yield to the nonhandicapped worker the minimum wage or prevailing wage, whichever is higher. When clients paid a commensurate wage earn less than the minimum or prevailing wage, it is a result of the limitations imposed by their disability.

~~H.~~ I. "Prevailing wage" means the wage rate for a specific job prevalent in the area or community in which the work activity or sheltered employment program exists.

~~EDU 481~~ 8 MCAR § 4.2002 Purpose. "The purpose of these regulations ~~this act~~ is to improve rehabilitation services for the severely disabled in Minnesota by providing for the development and continuation of long-term sheltered workshops and work activity centers." Minn. Stat. §§ ~~121.71-121.714.~~ 129A.01-129.09.

~~EDU 482~~ 8 MCAR § 4.2003 Eligible applicants.

A. An application for funding may be submitted at any time by a city, town, county, nonprofit organization or any combination thereof, which operates or proposes to operate a public or nonprofit long term sheltered employment or work activity program.

B. In cities there shall be a minimum population base and specified geographic area which the workshop shall serve. The commissioner may, in particular cases, permit modifications of this population range if he finds that such modifications will not impair the purposes of the act.

C. The applicant shall have a long-term sheltered workshop or work activity center board of directors of not less than nine members to be selected in such manner, be representative of such groups, and function as outlined in Minn. Stat. § 129A.07.

D. The applicant shall provide assurance that no person shall be denied services on the basis of race, color, creed, religion, national origin, sex, marital status, or status with regard to public assistance or disability ~~creed, color, or national origin.~~

E. The applicant shall adhere to all pertinent state, federal and local laws pursuant to the operation of a workshop or work activity center.

(EDU-1966; 1976)

~~EDU 483~~ 8 MCAR § 4.004 Eligible costs.

A. The grant may not exceed an amount equal to 75 percent of the normal operating expenses of the long-term sheltered employment or work activity program.

B. Wages paid to long-term sheltered workers or work activity participants are to be excluded in determining operating costs.

C. Funds eligible for matching are those received from local taxation or appropriation, gifts, or funds from other sources, including income derived from subcontract or manufacturing work in excess of that required to pay wages, provided such funds are not state funds.

(~~EDU 1966; 1975~~)

~~EDU 484~~ 8 MCAR § 4.005 Application content.

A. Applications for funding shall be submitted to the administrator in the form and detail required and shall include:

1. a description of both the existing and proposed program of services;

2. a description of the existing and proposed staffing plans;

3. a proposed budget and actual expenditures made in the year previous to the application;

4. a description of community support for the workshop;

5. an agreement to make such administrative and financial reports and to keep such records and accounts as may be required and to make such records and accounts available for audit purposes.

(~~EDU 1966; 1975~~)

~~EDU 485~~ 8 MCAR § 4.006 Clientele served. Severely disabled persons eligible for services are those individuals possessing physical, mental, emotional, or behavioral disabilities who, as a result of such disability, are unable to enter the competitive labor market either temporarily or permanently. Clients referred to the long-term sheltered employment program workshop shall have had a appropriate rehabilitation services, such as vocational evaluation and personal adjustment training, in order to render an adequate decision as to the suitability of placement in the workshop.

(EDU 1966; 1975)

~~EDU 486~~ 8 MCAR § 4.007 Standards of service. These standards govern the operation of any facility engaged in, or seeking to engage in, the provision of long-term sheltered employment or work activity services, and they set forth the requirements necessary for any such program to be funded or certified. (see EDU 492)

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A. Purposes.

1. General standards.

a. The purposes of the long-term sheltered employment or work activity program are clearly stated in appropriate publications for distribution to staff, clientele and referral sources.

b. The long-term sheltered employment or work activity program describes the habilitation or rehabilitation problems or conditions for which it provides services; and services provided.

~~e. The long term sheltered employment or work activity program describes in detail the services it provides;~~

c. The program shall have an evaluation system which measures results of the services provided and which is reviewed annually by its staff and governing board.

~~d. There is a systematic procedure for professional and administrative review of program effectiveness in relation to the stated purposes of the work activity program.~~

B. Organization and administration.

1. General standards.

a. Unless operated by a governmental agency, the long term sheltered employment or work activity program shall be is, or is part of, a legally constituted nonprofit corporate entity or part thereof under the appropriate federal, state and local statutes.

b. The make-up of the facility's governing body is in accordance with the requirements of Minn. Stat. §§ 129A.01-129A.09. §§ 121.71 to 121.715.

c. There is a staff organizational chart which specifies the lines of authority, responsibility and communication.

2. ~~Additional~~ Standards for work activity center programs.

a. Work Component program agreements shall include ~~Where the work activity program is a cooperative effort involving two distinct organizations, there is a written agreement which details the responsibilities of each organization and which includes, as a minimum,~~ the following:

- (1) staff supervision and training;
- (2) contract negotiation and bidding;
- (3) issuance of payroll checks;
- (4) maintenance of production checks;
- (5) client supervision and programing;
- (6) amount of work to be provided.

b. Where a work activity program takes place in, or is administered by, ~~a developmental achievement center, a daytime activity center~~ the DAC is licensed by the Department of Public Welfare.

c. The work activity program shall be is the administrative responsibility of a full-time paid staff member of the administering facility.

d. Where the work activity program is operated by a ~~developmental achievement center, daytime activity center,~~ it has an established relationship with an advisory body.

C. Fiscal management.

1. General standards.

a. The long-term sheltered employment and/or work activity programs are identified as separate and distinct entities in the accounting system of the administering organization.

b. The long-term sheltered employment or work activity program must provide for an annual operating budget which:

- (1) reflects and anticipates the program's needs for realizing its goals;
- (2) is used during the year as a yardstick to assess the accomplishment of budgetary goals.

c. The accounting system enables the administering organization to clearly identify both the costs and income attributable to the long term sheltered employment or work activity program.

d. The workshop facility has a risk protection program adequate to preserve its assets and to compensate its staff, volunteers, clientele, and the public for reasonable claims for which the facility is liable.

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2. Additional standards for work activity programs.

a. In bidding and executing contracts, an overhead markup of at least 50 percent on direct labor is utilized.

b. Fundraising programs shall conform to legal requirements and established ethical standards for fundraising activities.

3. Additional standards for long-term sheltered employment programs.

a. In bidding and executing contracts, an overhead markup of at least 80 75 percent on direct labor is utilized.

b. Fundraising programs shall conform to legal requirements and established ethical standards for fundraising activities.

c. Wages paid to long-term sheltered workers shall represent between 40% and 60% of contract income (including sales of prime products after deducting the cost of materials and supplies used in production).

d. Subcontract and sales income shall represent at 40% of the total long term sheltered workshop program income.

D. Program.

1. General standards.

a. There is evidence that the facility has made continuous efforts to insure the availability of significant work to meet the needs and objectives of the long-term sheltered employment or work activity program.

b. Work supervisors, responsible for implementing the long-term sheltered employment or work activity plan, have a clear understanding of the goals for the individual client and the method to be used in reaching those goals.

c. Whenever clients are engaged in production activity, there is a minimum of one supervisor for every 15 42 workers.

d. Each long-term sheltered employee or work activity center participant (or parent/guardian if appropriate) receives a written statement for each pay period which indicates gross pay, hours worked and all deductions.

e. There is evidence that continuing efforts are made to maximize productivity level of each long-term sheltered employee or work activity participant.

f. There is a written plan for each long-term

employee or work activity participant which describes the goals and objectives of the services to be provided as well as the expected outcomes.

g. The progress of each long-term sheltered employee or work activity participant is reviewed on a semi-annual quarterly basis and the results of that review are recorded.

2. Additional standards for work activity programs.

a. The work or production activities are carried out in a physically separate environment from other program or service activities. (NOTE: The same area may be utilized for production activities if all other activities cease in that area during the time production work is carried out.)

b. When the work activity program operates independently, either from a daytime activity center or sheltered workshop, there is evidence that the other program needs of the participants have been considered and provided directly through the work activity program, or made available for other resources. These other services may include, but would not be limited to:

- (1) recreation;
- (2) self care;
- (3) socialization;
- (4) education.

3. Additional standards for long-term sheltered employment programs.

a. Personnel policies for all long-term workers are established in writing, available to all workers and shall include the following provisions:

(1) Job description. The sheltered workshop shall develop a written position description describing the work responsibilities of sheltered employees. Whenever possible, this position description shall be developed for each department within the sheltered workshop.

(2) Sheltered employee wages.

(a) The sheltered workshop shall comply with all provisions of the Fair Labor Standards Act.

(b) Each sheltered employee shall be informed in writing when any adjustments are made in his/her salary or wage, and the reasons for that adjustment shall be full described.

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(3) Reimbursable expenses. If the sheltered employee is asked to represent the sheltered workshop at any function, the sheltered workshop shall have written policy providing for reimbursement to the sheltered employee of any travel, food lodging and incidental expenses.

(4) Reporting Pay. If a sheltered employee reports to work and there is no work for them to do the employee will be paid for one hour of work plus the cost of transportation to and from work. If the sheltered employee reports to work and works for any length of time, he/she shall receive pay for the minimum of one half day. If the sheltered employee works for more than one half day, he/she shall be paid for the actual hours worked.

(5) Breaks. A sheltered employee shall receive a 15 minute paid rest break during each morning and afternoon half-shift worked, and a thirty minute unpaid lunch period.

(6) Vacations. The sheltered workshop shall have a written vacation policy for all sheltered employees. That policy shall provide, in all aspects, the equivalent benefits to those provided to other permanent, full time staff employees of the sheltered workshop. Further, that policy shall assure to each full time sheltered employee a minimum of one week (5 working days) paid vacation annually. The time the vacation leave is utilized shall be at the discretion of the employer. If the sheltered employee leaves his/her position at the sheltered workshop, he/she shall be paid for the accumulated vacation time.

Special note: For the purposes of calculating vacation, holiday, sick leave, reporting pay, etc., the rate of pay shall be the employees average hourly earnings or his/her average piece rate for the 90 days prior to the period of time in question.

(7) Holiday pay. The sheltered workshop shall have an established written policy for holidays and holiday pay. That policy shall provide, at a minimum, six paid holidays annually for all sheltered employees.

(8) Sick leave. The sheltered workshop shall have an established written policy for sick leave and sick leave pay for sheltered employees. That policy shall, in all respects, provide equivalent benefits to those provided to other permanent, full time staff employees of the sheltered workshop. Medical and/or dental appointments which cannot be arranged during nonwork hours are legitimate uses of sick leave. The sheltered workshop sick leave policy shall

establish a maximum number of hours which can be accumulated by the sheltered employee. No sheltered workshop shall have a sick leave accumulation maximum of less than 200 hours.

(9) Personal or emergency leave. The sheltered workshop shall have an established written policy for personal and emergency leave. That policy shall specify the process by which the sheltered employee applies for such leave and level of approval required.

(10) Payroll procedures. The sheltered workshop shall have a written payroll procedure policy which will include regularly scheduled pay periods, with pay issued at least twice a month.

(11) Filling of Positions. Each sheltered workshop shall establish written procedures for the filling of all vacancies or newly created positions. In filling any such positions, the sheltered workshop shall be guided by the following requirements:

(a) first consideration shall be given to existing employees of the sheltered workshop who have the necessary skill for the vacant position and who have expressed an interest in that position;

(b) second priority shall be given to former employees of the sheltered workshop who left the workshop in good standing within the last six months to attempt competitive employment, and who wish to return to the sheltered employment;

(c) third priority shall be given to individuals on the sheltered workshops waiting list who are new applicants for employment; individuals shall be hired from that waiting list according to their position on the list, subject to their qualifications for the vacancy. If an applicant wishes to remain on the waiting list, he/she must notify the sheltered workshop every 90 days.

(12) Orientation. All new sheltered employees shall be provided a through orientation covering personnel policies, work procedures, safety procedures and other pertinent information relative to the work assignment. A copy of the sheltered workshop's written personnel policy will be provided to each sheltered employee.

(13) Probationary period. If the sheltered workshop utilizes a probationary period for new sheltered

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employees, the length of that probationary period shall be clearly stated. Expectations of the employee during this period shall be clearly explained to the employee and made available in writing.

The sheltered employee shall receive an evaluation of his/her job performance at least twice during the probationary period.

(14) Medical examinations. Medical examinations may be required by the sheltered workshop if directly related to a bonafide occupational qualification. Only medical information necessary to establish qualifications for employment need be provided. The workshop shall assume all expenses connected with the medical examination and the scope of the medical examination will be agreed upon in advance with the sheltered employee.

(15) Layoffs. For purposes of this section, a layoff shall be defined as three consecutive workdays or more without available work. When the sheltered workshop has received advance notice from its customers of an anticipated loss of work, or when the workshop is aware for any reason of a lack of work, a sheltered employee shall be provided a minimum of 5 days advance notice, in writing, of the layoff and the reasons for the layoff. The sheltered workshop shall refer the employee to an appropriate income maintenance program services.

Each sheltered workshop shall have a written policy which describes a definitive priority order for layoffs, and for return to work, and that policy shall be objectively and consistently applied. If the workshop has advance warning of the lack of work and fails to provide the 5 day advance notice, that workshop shall pay the sheltered employees for each day laid off without the appropriate notice.

(16) Unemployment compensation. Any sheltered employee working at least 20 hours per week shall, if laid-off, receive unemployment compensation either under the existing state unemployment laws or through a special program established by the Division of Vocational Rehabilitation. The only exception to this would be where the payment of any such compensation would interfere with, or significantly reduce, income support from other sources.

(17) Reduced work day. In the event of a shortage of contract work, a reduced work day may be utilized as an alternative to layoffs. If the reduced workday plan is expected to last for more than one week, all sheltered employees shall be given maximum notification of this fact. In the event of reduced workday plans of less than one week, at least one day notice shall be given. All temporary employees shall be released before such a reduced workday plan is put into effect.

(18) Dismissal. Dismissal of a sheltered employee shall take place only when there has been a clear, documented violation of established work rules. Job performance which has been clearly demonstrated to be below minimum requirements shall be considered just cause for dismissal. All dismissals are subject to the appeal procedures described elsewhere.

(19) Grievance procedure. Each sheltered workshop shall have a written grievance procedure which shall include, as a minimum, the following elements:

(a) all issues which are subject to the grievance process are clearly specified;

(b) the grievance procedure includes at least three levels or steps at which the grievance can be heard within the organization;

(c) specific time limits are established for response at each level in the grievance process;

(d) the procedure includes provision for involvement of an outside, impartial party to mediate the grievance.

(20) Confidentiality of sheltered employee case files. A written record is maintained for each case file which records everyone that accesses that file and the date. If the individual who viewed the file would not normally be considered to have regular access to it, the reason for its review shall be stated. A staff member of the sheltered workshop shall, on an annual basis, review with each sheltered employee that content of his/her case file. That employee shall have an opportunity to submit written information for inclusion in the file.

(21) Participation in professional organizations. If the sheltered employee is required by the workshop to belong to any organizations for the direct benefit of the workshop, all costs related to such memberships will be paid by the workshop.

(22) Health insurance. All sheltered employees shall be entitled to participate in some form of public or private health insurance program. In the event that a sheltered employee is not eligible for a publicly funded health program, the sheltered workshop will make available to that employee health insurance coverage equivalent to that available to all other staff of the workshop. The sheltered employee shall contribute to the cost of that health insurance in an amount proportionate to his/her productivity. (No comment regarding Worker's Compensation is included since this is already dealt with in the state Worker's Compensation law.)

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(23) Retirement plan. All sheltered employees shall be eligible to participate in a public or private retirement plan, if such a plan is offered by the sheltered workshop to other staff.

b. Enough work is available to provide employment for each long term worker at least 75 percent of the work days during the year.

E. Records and reports.

1. General standards.

a. A client case record is maintained at the long-term sheltered employment or work activity program site for each program participant.

b. The source of all recorded data is clearly stated.

c. As a minimum, the case record contains the following basic information:

- (1) results of the initial assessment;
- (2) a description of the program plan;
- (3) progress reports which relate to the program plan;
- (4) the case closure summary.

A yearly review of client records is made by the staff to insure compliance with the above standards.

Policies and procedures have been established to insure confidentiality of all case records.

Records shall be maintained for a period of time of at least five years from the closure of the case.

F. Wage and hour.

1. General standards.

a. The program has the appropriate federal wage and hour certificate.

b. All handicapped workers are paid a wage commensurate with that paid non-handicapped workers in the community.

c. For each piece rated job there is a written record of the procedure utilized in establishing that piece rate.

d. Where a client is involved in nonpiece rated work, there is a written record of the procedure used in establishing the hourly rate for the client.

e. The hourly rate of pay for nonpiece rate workers is reviewed at least semi-annually and a written record maintained of this review. If wages do not increase within one year, client record shall contain explanation.

f. Clients shall be paid in cash for all work performed.

~~2. Additional standards for long-term employment program~~

~~a. All long-term employees are paid at least 25 percent of the applicable minimum wage.~~

G. Physical facilities ~~Health and safety.~~

1. General standard. The long-term sheltered employment or work activity program shall comply with all applicable regulations of the Department of Labor and Industry, the State Fire Marshal's Office, Chapter 55 of the Minnesota Uniform Building Code, (2 MCAR §§ 1.15501-1.15508).

~~(EDU 1966, 1975)~~

H. Civil rights and affirmative action.

1. General standards. The workshop must be in compliance with the following:

a. Title VI of the Civil Rights Act of 1964, as it exists on the effective date of these rules;

b. Sections 101, 503, and 504 of the Rehabilitation Act of 1973; as amended, they relate to affirmative action and nondiscrimination;

c. Minnesota Human Rights Act (Minn. Stat. ch. 363).

I. Community involvement and relations.

1. General standards.

a. The workshop shall actively participate in community planning organizations and programs as they relate

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to rehabilitation, and shall conduct a public information program.

~~EDU 487~~ 8 MCAR § 4.2008 Workshop board of directors.

A. The number, appointment, representation, term, and functions of the long-term sheltered workshop board shall be as prescribed in Minn. Stat. §§ 129A.01-129A.09 ~~121.01-121.714~~.

B. Those workshops in operation prior to the enactment of Minn. Stat. §§ 121.71-121.714 shall integrate the principles prescribed in Minn. Stat. § 129A.07 ~~121.713~~ with respect to workshop board of directors where it is possible to do so.

(EDU 1966, 1975)

~~EDU 488~~ 8 MCAR § 4.2009 Approval of application. Applications for funding will be evaluated to determine the feasibility and effectiveness of the proposed and existing program in achieving the purposes of the enactment of Minn. Stat. §§ 121.71-121.714, the adherence to appropriate laws, the adherence to the Standards of Service, the conformance with the State Workshops and Rehabilitation Facilities Plan, and the eligibility of the applicants. Approval or disapproval of applications will be in printed form to the applicant with reasons for disapproval, in that event. The commissioner may require that a technical assistance consultation precede the award of any grant.

(EDU 1968, 1975)

~~EDU 489~~ 8 MCAR § 4.2010 Allocations and priorities.

A. Allocations. Allocations of available funds for long-term sheltered workshop programs shall be made by the commissioner as prescribed in Minn. Stat. § 129A.08, subd. 2. ~~121.714~~, subd. 2.

B. Priorities. After the commissioner, at the beginning of each fiscal year, has allocated available funds to long-term sheltered employment or work activity programs for disbursement during the fiscal year and in the event there are inadequate funds appropriated to meet the approved plan and budget of the applicants, the following priorities shall be considered:

1. relative needs of the population served by the existing or proposed program;
2. availability of local community support;
3. effectiveness of the services of the program;
4. availability of other methods of funding;

5. submittal of application, plan and budget within the required period.

NOTE: In general, existing workshops will have priority over proposed workshops in order that already existing programs be continued.

(EDU 1966, 1975)

~~EDU 490~~ 8 MCAR § 4.2011 Grant awards. All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of state funds available for such purpose on the date of the award. The initial award shall also specify the grant period (not in excess of one year) for which support is contemplated if the activity is satisfactorily carried out and state funds are available. For continuation support, grantees must make separate application each year prior to the date set for submission of the continuation application and in the form and detail required.

(EDU 1966, 1975)

~~EDU 491~~ 8 MCAR § 4.2012 Payments. Payments under this authority shall be made on the basis of periodic claims submitted by the long-term sheltered employment or work activity program detailing services provided during that period of time. The commissioner may determine, for each program, an equitable per diem rate of reimbursement.

(EDU 1966, 1975)

~~EDU 492~~ 8 MCAR § 4.2013 Certification.

A. Purpose: To insure that all long-term sheltered employment and work activity programs meet minimum standard of operation.

B. General policies.

1. Program certification under this authority shall be a requirement for funding through the division of vocational rehabilitation.

2. A certificate issued under these provisions does not replace or modify any certificates issued by the United States Department of Labor or the Minnesota State Department of Labor and Industry, for purposes of subminimum wage payments.

3. A single certificate will be issued for a facility, and that certificate will specify the type and location of all approved programs.

4. In the case of work activity programs operated cooperatively between two separate organizations, the cer-

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certificate will be issued to the organization responsible for payment of wages.

5. A program will be certified when it is found to be in substantial compliance with the established standards.

6. No certificate shall be issued for a period of time in excess of two years.

7. A provisional certificate may be issued to a new sheltered employment or work activity program for a specified period of time, not to exceed one year.

8. An applicant for certification shall have the right to appeal any decision of the agency. ~~The regulations of the department, as outlined in Chapter Thirty, EDU 590-619, Procedures for Contested Cases, shall be utilized.~~

C. Appeal procedure.

1. The procedure contained herein shall govern all appeals by rehabilitation facilities made upon certification decisions of the Division of Vocational Rehabilitation, Office of Rehabilitation Facilities (referred to as agency).

2. Reserved for future use.

3. Notice of decision. Within ten days of receipt of a rehabilitation facility certification report, the agency shall notify the facility as to the findings of the certification team. Such findings shall amount to the preliminary decision of the agency.

4. Objection. Any facility wishing to appeal a preliminary certification decision of the agency shall have 30 days from the receipt of such decision to notify the Director

of Rehabilitation Facilities as to the facility's intent to object to the decision. If such notice of appeal is not received at the end of the thirty days then the decision shall become the final decision of the agency.

5. Informal meeting. No more than 15 days after the agency receives a notice of intent to appeal a preliminary certification decision the area facility specialist shall contact an authorized facility representative and discuss the grounds for appealing the decision. In doing so the specialist should make clear any part of the decision or the standards applied which the facility representative may question. If the parties do not resolve the differences based on the preliminary decision, the facility may demand an informal hearing. A request

for an informal hearing must be received by the Director of Rehabilitation Facilities within 15 days of the receipt of the results of an informal meeting.

6. Informal hearing. A special panel comprised of three members including the Director of Rehabilitation Facilities, the Deputy Ombudsman for Long-Term Sheltered Workers (Ombudsman Project, Inc.) and the Executive Director of the State Council on the Handicapped shall conduct the informal hearing.

Along with the request, the facility must submit a memorandum outlining the ground for the appeal including all relevant facts and issues to be covered at the hearing.

The informal hearing will be held within thirty days of such a request. The Facilities Panel shall review the findings from the informal meeting and consider all evidence presented by the facility at the time of the hearing. The panel shall hear any testimony relevant to the resolution of the issues upon which the facility bases its appeal.

The panel shall send to the facility a written opinion as to the objection to certification within twenty days of the informal hearing.

Such opinion shall become part of the certification report and be part of the final decision of the agency unless the opinion of the panel is appealed by the facility. Such final appeal would be made in a formal hearing.

7. Formal hearing. Should the facility wish to appeal the opinion of the Facilities Panel such notice of appeal should be sent to the Director of Rehabilitation Facilities within 10 days of receipt of the panel's decision.

A formal hearing shall be conducted under the procedures set out in the Hearing Examiner Rules (9 MCAR § 2.201 et seq.) promulgated under the authority of Minn. Stat. § 15.052.

8. Legal representation. Any party may be represented by legal counsel at any step of the appeals process.

C. Application procedures:

~~1. Any facility operating, or proposing to operate a long term sheltered employment or work activity program, shall submit an application for certification in the form prescribed by the commissioner;~~

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2. The facility shall receive 30 days prior notification of the proposed date of the on-site review;

3. Within 30 days following completion of the on-site review the facility will be provided with a complete set of findings and the review team's decision on certification.

(EDU 1966, 1975)

EDU 493-499 Reserved for future use.

Ethical Practices Board Proposed Rules Governing Lobbyist Registration and Reporting

Notice of Hearing

Notice is hereby given that a public hearing pursuant to Minn. Stat. § 15.0412 (1978) and Minn. Laws 10A as amended in 1978 in the above entitled matter will be held in Room 57, State Office Building, St. Paul, MN 55155, on Thursday, December 7, 1978, beginning at 9:30 a.m., and continuing until all persons have had an opportunity to be heard.

Statutory authority to promulgate the proposed rules is vested in the Ethical Practices Board by Minn. Stat. § 10A.02 subd. 11 (1978).

The Ethical Practices Board proposes to amend existing rules EC 200-EC 211 to reflect changes in the statute in 1976, 1977, and 1978 relating to the registration and reporting of lobbyists. These amendments affect the definition of a lobbyist, lobbyist registration and reporting requirements, and penalties for late filing.

Free copies of the proposed rules are available and can be obtained from the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, or by calling (612) 296-5148. Additional copies will be available at the hearing.

A Statement of Need explaining why the Board feels the proposed rules are necessary and a Statement of Evidence outlining the testimony they will introduce will be filed with the Hearing Examiner at least 25 days prior to the hearing and will be available for public inspection.

All interested or affected persons will have an opportunity to participate. Statements made orally and written materials may be submitted at the hearing. In addition, written

materials may be submitted by mail to Hearing Examiner Allan W. Klein, telephone: (612) 296-5938, either before the hearing, or within (5) five working days following the close of the hearing, or up to 20 days if ordered by the Hearing Examiner.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within 5 days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exemptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone: (612) 296-5615.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report) or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

October, 1978.

Roger Noreen
Chairperson

Rules as Proposed

Chapter Three 9 MCAR §§ 1.0200-1.0209

Rules and Regulations for Lobbyist Registration and Reporting

~~EC 200~~ 9 MCAR § 1.0200 Purpose of the rules. The purpose of Rules ~~EC 200-212~~ 9 MCAR §§ 1.0200-1.0209 is

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to implement the lobbyist registration and reporting provisions of Minnesota Laws 1974, Chapter 470 (Minnesota Statutes, 1974, §§ 10A.01-10A.34), hereinafter "the Act"

~~EC-201~~ 9 MCAR § 1.0201 Definitions.

(a) "Address" means street and number (Post Office box or rural route, if appropriate); room number (if any); city, state and zip code.

(b) "Association" means business, corporation, firm, partnership, committee, labor organization, club or any other group of two or more persons, which includes more than an immediate family, acting in concert. Minn. Stat. 10A.01, subd. 3 (1974)

(c) "Attempt to influence" means any effort to persuade a public official to support or oppose proposed legislation or to direct the outcome of an administrative action in a particular way.

(d) "Disbursement" means any payments or expenditures made by the lobbyist, or any employer or employee of the lobbyist, for lobbying purposes.

(e) "Employee of the lobbyist" means a person employed by the lobbyist to assist him in his lobbying activities.

(f) "Employer of the lobbyist" means the person or association by whom he is employed for the purpose of lobbying.

(g) A. "File", "Filed" and "Filing" means delivery to the Minnesota State Ethics Commission by midnight of the prescribed date for filing, or deposit as certified mail in a U.S. Post Office, postage prepaid, no later than midnight two days before the prescribed filing date, date of postmark or personally delivered to the Ethical Practices Board by the close of a business day.

(h) "Lobbying" means to attempt to influence legislative or administrative actions by communicating with public officials. For purposes of these rules "administrative action" means making rules or regulations, or cases of rate setting or power plant siting. For purposes of these rules "communicating" means any written or oral contact by a lobbyist with a public official. Lobbying does not include a request for information or interpretation.

(i) B. "Lobbyist" means: an individual as set forth in Minn. Stat. § 10A.01, subd. 11. Lobbyist does not

include an individual who merely communicates with a public official to obtain information or request an interpretation of a law, rule or agency action.

(1) Any individual who is engaged for pay or other consideration, or who is authorized by another person to spend money, for the purpose of attempting to influence legislative or administrative action by communicating with public officials.

(2) Any official designated representative of any person or association which has as a major purpose the influencing of legislative or administrative action by communicating with public officials. An officially designated representative is a person authorized by another to lobby on the latter's behalf.

(3) Any individual who spends more than \$250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating with public officials.

"Lobbyist" does not include: an individual who merely communicates with a public official to obtain information or request an interpretation of a law, rule or agency action.

(4) A public official, or employee of the state or any of its political subdivisions or public bodies, acting in his official capacity.

(5) Parties and their representatives appearing or acting in any proceeding before a state board, commission or agency of the executive branch other than rulemaking proceedings or cases of rate setting or power plant siting.

(6) Individuals in the course of selling goods or services to be paid for by public funds.

(7) News media or their employees or agents, but only while acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action.

(8) Paid expert witnesses whose testimony is requested by the body before which they are appearing or by one of the parties to a proceeding, but only while acting in the ordinary course of preparing or delivering testimony.

Minn. Stat. 10A.01, subd. 11 (1974).

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C. "Urging/Urges others to communicate" means any written or oral communication by a lobbyist which requests an individual or association to advocate a particular position to a public official concerning any legislative action or administrative action, or which requests an individual or association to advocate a public official initiate any particular legislative or administrative action. The term does not include mere presentation of factual material without comment.

(j) "Occupation and principal place of business" means, if self-employed, type of work or profession and city and state where self-employed; or, if employed by another, the type of work or title, name of employer or employing organization, and city and state of employment.

(k) "Public Official" means:

(1) Any member of the legislature;

(2) Any person holding a constitutional office in the executive branch and his chief administrative deputy;

(3) Any member of a state board or commission with rulemaking authority as provided in Minn. Stat. 15.0411, subd. 3;

(4) Any person employed by the legislature as secretary of the senate, chief clerk of the house, revisor of statutes, legislative auditor, or researcher or attorney in the office of legislative research;

(5) Any person employed by the executive branch in a position specified in Minn. Stat. 15A.081;

(6) Any member of the metropolitan council, metropolitan transit commission, metropolitan sewer board or metropolitan airports commission.

Minn. Stat. 10A.01, subd. 18 (1974).

EC-202 9 MCAR § 1.0202 Obligation to register. Each lobbyist must register with the Commission by filing the Lobbyist Registration Form EC Form 4) within five days after lobbyist activity has commenced by the lobbyist. No lobbyist shall be required to register before January 15, 1975. An individual shall register as a lobbyist as required by Minn. Stat. § 10A.03, Minn. Stat. § 10A.01, subd. 11, and as follows:

A. Attendance at legislative or administrative hearings. For purposes of determining time calculation necessary to require registration as lobbyist, mere attendance at a public hearing without testifying or communicating with a public official shall not be considered time spent attempting to influence a legislative or administrative action.

B. Paid expert witness registration. An individual who is hired or paid by a lobbyist as an expert witness and whose testimony is requested by a legislative committee, or an agency defined by Minn. Stat. § 15.0412, subd. 2, or a state hearing examiner, shall not be required to register as a lobbyist if the committee, agency, or hearing examiner, by order, resolution, recorded vote or other formal means requests such expert testimony. This exclusion shall be applicable only to the extent of preparing or delivering the requested testimony.

EC-203 Required registration information

(a) The Lobbyist Registration Form (EC Form 4) shall include the following information:

(1) Name and address of the lobbyist.

(2) Principal place of business of the lobbyist, if any.

(3) Name and address of each person or association, if any, by whom the lobbyist is retained or employed, or on whose behalf the lobbyist appears.

(4) The names and addresses of the officers and directors of each association the lobbyist represents.

(5) A general description of the subject or subjects on which the lobbyist expects to lobby, which general description shall include a listing of the categories of legislative or governmental activity concerning which the person expects to lobby.

(b) Each person or association on whose behalf a lobbyist is required to report shall provide the information required in EC 203 (A) and EC 205 to the lobbyist no later than five days before each prescribed filing date.

EC-204 9 MCAR § 1.0203 Obligation and time to report Obligation to file disbursement report or termination report.

(a) Each person who is a lobbyist at any time during a calendar year shall file a Lobbyist Disbursement Report (EC Form 5) which shall include all disbursements made during the applicable reporting period as provided in EC 205. No Lobbyist Disbursement Report (EC Form 5) shall cover any activities or disbursements made prior to January 1, 1975.

A. A lobbyist shall file a lobbyist disbursement report on each reporting date indicating whether or not the lobbyist has any reportable disbursements during a reporting period.

(b) After filing the Lobbyist Registration Form (EC Form 4), each lobbyist must file Lobbyist Disbursement

PROPOSED RULES

Reports (EC Form 5) on the following dates of each year, beginning with the first such date which occurs 15 days or more after commencement of lobbying:

February 15;

March 15;

April 15;

June 15; and

October 15.

(e) The first Lobbyist Disbursement Report (EC Form 5) shall include disbursements subject to reporting under EC 205 which are made from the day lobbying commences to the day 15 days immediately preceding the current filing date. Each subsequent Lobbyist Disbursement Report (EC Form 5) shall include reportable disbursements made from the end of the period covered by the preceding report to the day 15 days immediately preceding the current filing date.

(d) A lobbyist who testifies at only one legislative committee hearing, or at one proceeding of a state board, commission or agency, and who is not otherwise engaged in lobbying, shall register as required by Rule EC 202, but may terminate his requirement to file a Lobbyist Disbursement Report (EC Form 5) by identifying on the Lobbyist Registration Form (EC Form 4) the date, place, and forum of the single appearance as a lobbyist, and by stating (1) that no reportable disbursements were made in connection with the appearance such as to require reporting by the lobbyist, or (2) the name of the person or association reporting any reportable disbursements made in connection with the appearance.

B. Termination report. (e) ~~Except as provided in EC 304 (D), a~~ A lobbyist who terminates his activities as a lobbyist may terminate his duty to report by indicating on a Lobbyist Disbursement Report (EC Form 5) the fact that his activities as a lobbyist have terminated. registration as a lobbyist prior to a reporting date shall file a lobbyist disbursement report through the date of termination. If such person an individual subsequently renews lobbyist activity, then he the individual must shall re-register in accordance with Rule EC 202 and file reports as required by Rule EC 204. Minn. Stat. § 10A.03, subd. 1.

~~EC 205 9 MCAR § 1.0204 Required reporting information~~ Lobbyist Disbursement Reports and reporting.

(a) ~~A. Disbursements- Reports.~~ The lobbyist shall report the following information on the Lobbyist Disbursement Report (EC Form 5):

(1) All information required on the Lobbyist Registration Form (EC Form 4) by EC 203 (A), (1-4), and a general description of the subject or subjects on which the lobbyist has lobbied, which general description shall include a listing of the categories of legislative or administrative activity concerning which the person has lobbied during the reporting period.

1. A lobbyist shall identify the names and, if known, the registration numbers of other lobbyists for whom he is reporting.

(2) Total disbursements by the lobbyist, or any employer or employee of the lobbyist, for lobbying purposes in each of the following categories:

2. On January 15th of each year a lobbyist shall file a current list of names and addresses of directors and officers of the association that he represents if there have been changes in the membership of said boards during the preceding calendar year.

3. A Lobbyist Disbursement Report shall include the total disbursements for the reporting period by the lobbyist, and any employer or employee of the lobbyist, for lobbyist activities in each of the following categories:

(aa) a. Preparation and distribution of lobbying materials. This category shall include any all disbursements for preparation and distribution of any printed material, publication, film, slide, recording, and video tape, or other communication material specifically prepared by or for a lobbyist, or any employer or employee of the lobbyist, and which advocates, promotes and supports the special interests and concerns of an individual or association, and which is used to attempt to influence the action of any public official. Lobbying material means any material, except media advertising, which is prepared or purchased by a lobbyist for a lobbying purpose.

(1) Preparation of research material and reports. The cost of researching and writing reports from which data is used in preparing lobbying materials is not reportable as a lobbyist disbursement even if the individual preparing the research material is a registered lobbyist.

(2) Newsletters and publications. The cost of

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preparation, printing and distribution of a newsletter or other publication, including but not limited to, pro rata office expenses and compensation paid to employees for the preparation of such a publication or a portion of the publication shall be reported as a lobbyist disbursement if used for a lobbying purpose. Only the cost of that portion of a newsletter or publication which is lobbying material shall be reported as a lobbyist disbursement.

(bb) b. Media advertising. This category shall include only lobbyist disbursements for billboards, newspapers, radio and television time purchased for a lobbying purpose. The term does not include mere presentation of factual material without comment.

(cc) c. Telegraph and telephone.

(dd) d. Postage.

(ee) e. Fees, salaries and allowances. This category shall include disbursements for consulting fees, salaries, or other fees, for services done or to be done, as well as expenses incurred in rendering such services. This category shall not include compensation paid to the lobbyist by his employer for services rendered as a lobbyist on behalf of the employer.

(ff) f. Entertainment. This category shall include lobbyist disbursements for entertainment provided to public officials including but not limited to sporting, theatrical and musical events, made on behalf of any public official, as well as the cost of entertainment for the lobbyist, or and the employer or employee of the lobbyist when in the company of any the public official, for a lobbying purpose.

(gg) g. Food and beverages. This category shall include:

(1) All disbursements for food and beverages for any provided to public officials, as well as food and beverages for the lobbyist, or and any employer or employee of the lobbyist, when in the company of any a public official, for a lobbying purpose.

(2) All disbursements for food and beverages provided to public officials who are invited to conferences, conventions, banquets, legislative days or other similar functions for a lobbying purpose.

(3) The cost of food and beverages provided by a lobbyist, the employer or employee of the lobbyist, at meetings or conferences for the purpose of urging others to communicate with public officials.

(4) The cost of food and beverages provided to

expert witnesses by a lobbyist, the employer or employee of the lobbyist, when paid expert witnesses are brought to testify before legislative committees or in hearings conducted pursuant to Minn. Stat. § 15.0412, if the paid expert witness does not register as a lobbyist.

(hh) h. Travel and lodging. This category shall include:

(1) All disbursements for travel and lodging of the lobbyist, any employer or employee of the lobbyist, or of any provided to a public official, for a lobbying purpose, except those incurred for the purpose of enabling the lobbyist, or any employer or employee of the lobbyist, to attend a meeting or to appear before a committee of the legislature, or a state board, commission or agency.

(2) The cost of travel and lodging for the lobbyist, the employer or employee of the lobbyist when in the company of a public official for a lobbying purpose.

(3) The cost of travel and lodging paid by a lobbyist, the employer or employee of the lobbyist when urging others to communicate with public officials.

(4) The cost of travel and lodging paid by a lobbyist, the employer or employee of the lobbyist, to bring paid expert witnesses to testify before legislative committees or in hearings conducted pursuant to Minn. Stat. § 15.0412, if the paid expert witness does not register as a lobbyist.

(5) The cost of travel and lodging paid by a lobbyist to transport individuals for the purpose of lobbying.

(ii) Gifts. This category shall include the cost of anything of value given or paid voluntarily to a public official without full and adequate consideration, and which is not reported in categories (a) (h) but shall not include contributions to candidates. For purposes of these rules, "contribution to a candidate" shall include any contribution made for the purpose of influencing the nomination for election or election of a candidate to office.

(jj) i. Other disbursements. This category shall include all disbursements not reported in categories (a) (i)(h), but shall not include including nonreimbursed, ordinary and necessary office expenses, including clerical expenses, incurred for the purpose of lobbying.

(3) Total disbursements reported to date during the calendar year in each of the categories listed in EC 205 (a)(2).

(b) B. Disclosure of gifts, loans, honorariums, items or benefits. The lobbyist shall report on the Lobbyist Disbursement Report (EC Form 5) the name and address of

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each public official receiving any gift, honorarium, loan, item or benefit from the lobbyist, or any employer or employee of the lobbyist, equal in value to \$20 or more; in a single transaction, excluding contributions to candidates, and to include the amount, the date on which it was received, and a description of the transaction, whether or not it was given for lobbying purposes, in the following categories:

(1) 1. Gifts or benefits. This category shall include, anything of value, other than an item or benefit, but not be limited to, entertainment, food, beverage, travel and lodging as defined in 9 MCAR § 1.0204, given or paid voluntarily by the lobbyist, or any employer or employee of the lobbyist, to a public official without the public official providing full and adequate consideration. This category shall not include campaign contributions.

(2) 2. Loans. This category shall include anything of value loans, given or paid voluntarily by the lobbyist, or any employer or employee of the lobbyist, to a public official which the public official agrees to return at some future time or to repay with something of value, except a loans from an financial institutions engaged primarily in the business of making loans when made in the ordinary course of business on substantially the same terms as those prevailing for comparable transactions with other persons.

(3) 3. Honorariums. This category shall include anything of value a payment given or paid voluntarily by the lobbyist, or any the employer or employee of the lobbyist, to a public official for services for which there is no obligation to make repayment; for example, honorariums paid for a speeches, an articles, or similar services.

(4) Items or Benefits. This category shall include entertainment, food and beverages, travel and lodging

The name and address of the public official and the date of the transaction shall be reported only when the value of the gift, honorarium, loan, item or benefit provided to a public official in a single transaction is equal in value to \$20 or more. Whenever a disbursement for a gift, item or benefit for a public official is reported under EC 205 (A) (2), the name and address of the public official must also be reported under EC 205 (B) if the value of such gift, item or benefit is equal in value to \$20 or more. The lobbyist is not required to report any item or benefit given or paid to a part time, non-elected public official by the lobbyist's employer, if it is given or paid to such public official in his non-official capacity by a person other than the lobbyist, without any participation by the lobbyist in the transaction, in connection with a specific business activity unrelated to lobbying.

(e) C. Original source of funds. The lobbyist shall report on the Lobbyist Disbursement Report (EC Form 5) the following information as to the "original source of funds" in excess of \$500 in the calendar year used for the purpose of lobbying: The name, address, and employer, or if self-employed, the occupation and principal place of business, of each original source of funds in excess of \$500. It shall not include the amount paid. For reporting purposes, original source of funds shall mean any person individual or association who disburses \$500 or more in any year directly to the lobbyist, or to any employer of the lobbyist, to be used for purposes of lobbying, including fees or salary paid to a lobbyist as compensation.

~~EC 206 9 MCAR § 1.0205~~ Lobbyist retained by more than one employer. A lobbyist retained by or representing more than one employer shall submit a separate Lobbyist Registration Form (EC Form 4), and a separate Lobbyist Disbursement Reports (EC Form 5), for each employer by whom ~~he~~ the lobbyist is retained. If a disbursements has been made on behalf of more than one employer, the lobbyist may must report such disbursements on one Lobbyist Disbursement Report (EC Form 5) as a joint disbursement together with a statement reasonably allocating disbursements among the several employers. a reasonable allocation for each employer.

~~EC 207 9 MCAR § 1.0206~~ Employers which employ more than one lobbyist. If the same person or association employs or is represented by more than one lobbyist, each lobbyist must register separately. However, one registered lobbyist may report all the disbursements for lobbying purposes made by all lobbyists representing a common employer, person or association. In such case, each the lobbyist shall file a certified report on his Lobbyist Disbursement Report (EC Form 5) stating the name of the employer, person or association which the lobbyists represent in common. The reporting lobbyist shall certify the names of the lobbyists for whom the Lobbyist Disbursement Report is made. Each other lobbyist shall certify on his Lobbyist Disbursement Report to the accuracy of the single report of his disbursements by the reporting lobbyist. reporting all the disbursements must indicate the names of the other lobbyists for whom disbursements are being reported. A lobbyist, so represented, must file Lobbyist Disbursement Reports specifying the name of the lobbyist who will report total disbursements on behalf of the joint employer.

9 MCAR § 1.0207 Lobbyist disbursements for administrative actions. A lobbyist who does both legislative and administrative lobbying may file separate reports for the

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purpose of segregating those disbursements which were incurred for administrative lobbying from those disbursements incurred for legislative lobbying. Unless separate reports are filed the Board will treat all disbursements as legislative lobbying disbursements.

~~EC 208 Place to obtain and file forms.~~ All Lobbyist Registration Forms (EC Form 4) and Lobbyist Disbursement Reports (EC Form 5) shall be on forms issued by the Minnesota State Ethics Commission and shall be filed with the Minnesota State Ethics Commission.

9 MCAR § 1.0208 Agency solicitation of outside opinions. For purposes of registration and reporting lobbyist activity, an administrative action commences in administrative rulemaking when a state agency publishes a notice in the State Register, as required by Minn. Stat. § 15.0412, subd. 6, or takes such other formal action provided by law to commence the rulemaking process.

~~EC 209 Changes and corrections.~~ Any material changes in information previously submitted, and any corrections to a Lobbyist Registration Form (EC Form 4) or Lobbyist Disbursement Report (EC Form 5), shall be filed in writing with the Commission within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and the paragraph containing the information to be changed or corrected, and shall be signed and certified to be true by the person filing.

9 MCAR § 1.0209 Late filing fees.

A. The Board shall grant a waiver of late filing fees for sickness or injury of the filer, or other compelling reason when a written request for waiver is submitted not later than the fifth business day following the day of filing the late statement or report.

B. A late filing fee shall not be assessed for Saturday, Sunday or legal holidays.

C. The late filing fee shall commence the eighth day following receipt of a late filing notice, unless the eighth day falls on Saturday, Sunday, or a legal holiday. The late filing fee shall then commence the next business day.

D. A late filing fee shall be charged through the business day preceding the day of filing of a late statement or late periodic report.

E. A certified letter returned to the Board by the U. S. Post Office marked "refused" shall be deemed to have been received by the addressee on the date of refusal. The late filing fee shall commence the first business day following the seventh day after refusal.

F. Except as provided in 9 MCAR § 1.0209 E., a certified letter returned to the Board by the U. S. Post Office undelivered for any reason shall be forwarded by first class mail to the lobbyist, addressed to the lobbyist at the address shown on his latest registration statement or disbursement report. The late filing fee shall then commence the first business day following the seventh day after deposit in First Class U. S. mail.

~~EC 210 Contingent fees prohibited.~~ No person or association shall employ a lobbyist for compensation which is dependent upon the result or outcome of any legislative or administrative action. Any person or association violating these provisions is guilty of a gross misdemeanor.

~~EC 211 Failure to report.~~ The Commission must notify by registered mail any lobbyist who fails to register or report within five days after the required filing date. A lobbyist who knowingly fails to register or make such periodic reports within seven days after receiving notice from the Commission is guilty of a misdemeanor.

~~EC 212 Penalty for false statements.~~ Any registration form or report required by these rules shall be signed and certified to be true by the person required to file the report. Any person who signs and certifies to be true a report or statement which he knows contains false information or who knowingly omits required information is guilty of a felony.

Filed December 31, 1974.

Department of Health Environmental Health Division Water and Wastewater Operators Certification Council

Proposed Amendments to Rules Relating to Construction of Wells and to Water and Wastewater Facility Classification and Operator Classification

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. §

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15.0412, subd. 4 (1976), in Room 115, Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota on December 12, 1978 commencing at 12:30 p.m.

All interested or affected persons will have an opportunity to participate concerning the amendments to the rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statement or material may be submitted by mail to George Beck, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8103, either before the hearing or within five (5) working days after the close of the hearing. The hearing examiner may keep the record open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

If adopted, the amendments proposed by the Commissioner* of Health would result in changes to the water well construction code (MHD 210-225) primarily in the following areas: definitions, information required for a variance, protection for observation wells, additional requirements for community wells, abandonment, isolation distances from existing wells, size of casing and drill hole, grouting, rock wells, dug or bored wells, suction lines and water sampling procedures. Only housekeeping changes are being proposed in the provisions which govern the licensing of water well contractors. The authority of the commissioner to make such revisions is contained in Minn. Stat. § 156A.05, subd. 2 (1976).

If adopted, the amendments proposed by the Water and Wastewater Operators Certification Council (hereafter council) would revise existing rule WWOB-1 by separating it into three new rules 6 MCAR §§ 5.001-5.003, by establishing a points system for classification of wastewater treatment facilities, by making minor revisions to the sys-

*Laws of 1977, ch. 305 § 39, transfers to the Commissioner of Health all of the rulemaking authority formerly held by the Board of Health.

tem for classification of water treatment systems, and by making minor revisions to the operator qualifications required for certification in a particular class. The authority of the council to promulgate such revisions to its rules is contained in Minn. Stat. § 115.79 (1976).

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to the Minnesota Department of Health, Division of Environmental Health, 717 Delaware Street S.E., Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the Minnesota Department of Health, at the Minnesota Pollution Control Agency, and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the department, and the council at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiner at a minimal charge.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the commissioner and the council may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner, in the case of the Hearing Examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws of 1978, ch. 463, § 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

October 16, 1978

Paul B. Johnson, Secretary
Water and wastewater Operators
Certification Council

Warren R. Lawson, M.D.
Commissioner of Health

Proposed Revisions to Water Well Construction Code Rules as Proposed

7 MCAR § 1.210 ~~MHD 210~~ Definitions and policies.

A. (a) For the purposes of these regulations promulgated pursuant to Minn. Stat. ch. 156A (1976) as amended, the terms defined in this section have the meanings given them, except where the context clearly indicates otherwise.

B. (b) The following terms apply primarily to the licensing regulations, 7 MCAR §§ 1.211-1.216 ~~MHD 211-216~~, but are also applicable to the Water Well Construction Code, 7 MCAR §§ 1.217-1.230 ~~MHD 217-230~~, when used therein.

1. (1) ~~“Board means the Minnesota Board of Health, or its authorized representative. “Commissioner” means the Commissioner of Health or his or her authorized representative.”~~¹

2. (2) “Council” means the Water Well Contractors Advisory Council created pursuant to the provisions of Minn. Stat. § 156A.06 (1976).

3. (3) “Act” means Minn. Stat. §§ 156A.01-156A.08 (1976), as amended, under which these rules and regulations are promulgated.

4. (4) “APA” means the Administrative Procedure Act, Minn. Stat. ch. 15 (1976).

5. (5) “Person” means any natural person, corporation, partnership, or other business association.

6. (6) “Applicant” means any person who applies for a water well contractor’s license pursuant to the Act.

7. (7) “Application for examination” means the application submitted by an applicant from which the ~~board~~ commissioner determines whether the applicant is eligible to take the examination.

8. (8) “Application for licensure” means the application submitted by an applicant upon his successful completion of the examination, or at the end of each calendar year for licensure renewal.

9. (9) “Year of experience” means a year during which the applicant personally drilled five (5) water wells and was actively working in the trade for a period of 1,000 hours under the supervision of a licensed water well contractor. An applicant drilling 1,000 hours per year and completing fewer than 5 wells per year may qualify, if the experience is gained in constructing one or more large diameter wells which are more than 500 feet deep. An applicant who seeks to qualify under this provision shall have his license limited to construction of such deep and large diameter wells.

a. (aa) Supervision of a drilling operation shall not be considered as an equivalent to personally drilling a well; ~~however, supervision may be considered by the Board as experience meeting the requirements of these regulations on a case by case basis depending upon:~~

(aa1) The number of well drilling operations supervised during a year;

(aa2) The percentage of time spent at the site of a drilling operation;

(aa3) The type of activity performed as part of the applicant’s supervisory responsibilities; and

(aa4) Other factors as may be relevant to each particular case.

b. (bb) The experience must have been gained in Minnesota except that an applicant may provide the ~~Board~~ commissioner with information demonstrating that his experience was gained in an area with the same or similar geological and other well drilling conditions as in the applicant’s proposed well drilling operations territory in Minnesota. Such experience may be considered as meeting the experience requirement of these regulations. Applicants from states having no standards or licensing programs, or standards less strict than those adopted pursuant to Chapter 156A shall have obtained at least one year of experience in Minnesota under the supervision of a licensed water well contractor, in addition to that which is required under 7 MCAR § 1.211.

¹ The term “commissioner” replaces “board” pursuant to Laws of 1977, ch. 305, § 45.

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10. ~~(4)~~ "Licensee" means a person who is licensed as a water well contractor pursuant to the provisions of the Act and these rules and regulations.

11. ~~(4)~~ "Representative" means an individual who is in charge of the water well drilling and contracting operation and qualifies for licensure on behalf of a partnership, corporation, or other business association rather than on his own behalf.

12. ~~(4)~~ "Upper termination of the well casing" means a point twelve (12) inches above the established ground surface.

13. ~~(4)~~ "A water well drilling machine" means any machine or device such as a cable tool, hollow rod or auger used for construction of a water well including drive point wells or a hoist or machine used in the well repair service which involves the modification to the well casing, screen depth or diameter below the upper termination of the well casing.

c. ~~(e)~~ The following terms apply to the Water Well Construction Code, ~~MHD 217-230.~~ 7 MCAR § 1.217-§ 1.230:

1. ~~(4)~~ "Abandoned water well" means a well whose use has been permanently discontinued, or which is in such disrepair that its continued use for the purpose of obtaining ground water is impracticable or may be a health hazard.

2. ~~(2)~~ "Administrative authority" means the ~~Board~~ commissioner. When this code, 7 MCAR §§ 1.217-1.230 (~~MHD 217-230~~), is adopted by any municipality of the State, such municipality may apply to the ~~Board~~ commissioner for authorization to act as an inspection agent of the administrative authority to enforce the provisions of the Act and these regulations. The inspection agent's authority shall be limited to inspections to determine compliance by licensees with the provisions of these regulations 7 MCAR §§ 1.210-1.230 (~~MHD 210-230~~) and to exercise any other powers specifically given the administrative authority by these regulations. The ~~Board~~ commissioner may grant such authority if the municipality demonstrates that at least one of its employees is qualified and familiar with the well drilling operations in that municipality. Such authorization may be revoked without cause by the ~~Board~~ commissioner or released by the municipality on ten days written notice. This section shall not preclude the ~~Board~~ commissioner or any municipality from reaching an agreement authorized by Minn. Stat. § 471.59 (1976).

3. ~~(3)~~ "Annular space" means the space between two cylindrical objects one of which surrounds the other, such as the space between a drillhole and a casing pipe, or between a casing pipe and liner pipe.

4. ~~(4)~~ "Approved basement" means a private home basement with walls and floor constructed of concrete or equivalent which is not subject to flooding and not located within a flood plain.

5. ~~(5)~~ "Aquifer" means a water-bearing formation (soil or rock horizon) that transmits water in sufficient quantities to supply a well.

6. ~~(6)~~ "Casing" means an impervious durable pipe placed in a well to prevent the walls from caving and to seal off surface drainage or undesirable water, gas or other fluids to prevent their entering the well and includes specifically but not limited to:

a. ~~(aa)~~ "Temporary casing" means a temporary casing placed in soft, sandy or caving surface formation to prevent the hole from caving during drilling.

b. ~~(bb)~~ "Protective casing" means the permanent casing of the well.

(ee) "~~Liner pipe~~" means a well casing installed ~~without driving within a protective casing or open drillhole.~~

7. ~~(7)~~ "Coliform group" means all of the aerobic and facultative anaerobic, gram-negative, nonspore-forming, rod-shaped bacteria which ferment lactose with gas formation within 48 hours at 35° centigrade.

8. ~~(8)~~ "Director" means the director of the Division of Environmental Health of the Department, or his authorized representative, who shall carry out the administrative functions of these regulations on behalf of the ~~Board~~. Commissioner.

9. ~~(9)~~ "Drawdown" means the extent of lowering of the water surface in a well and aquifer resulting from the discharge of water from the well.

10. ~~(4)~~ "Dug well" means a well in which the side walls may be supported by material other than standard weight steel casing. Water enters a dug well through the side walls and bottom.

11. ~~(4)~~ "Established ground surface" means the in-

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tended or actual finished grade (elevation) of the surface of the ground at the site of the well.

12. ~~(+2)~~ "Geological material" means all materials penetrated in drilling a well.

Material	Particle Diameters		Screen Slot No.	
	Millimeters	Inches	From	To
Clay	Up to 0.005	Up to 0.0002	—	I
Silt	0.005 - 0.062	0.0002 - 0.0025	—	—
Fine Sand	0.062 - 0.250	0.0025 - 0.010	2	10
Medium Sand	0.250 - 0.50	0.010 - 0.020	10	20
Coarse Sand	0.50 - 1.00	0.020 - 0.040	20	40
Very Coarse Sand	1.00 - 2.00	0.040 - 0.080	40	80
Fine Gravel	2.00 - 4.00	0.080 - 0.160	80	160
Coarse Gravel	4.00 - 62.5	0.160 - 2.50	160 and larger	
Cobbles	62.5 - 250.0	2.50 - 10.0	—	—
Boulders	250.0 and larger	10.0 and larger	—	—

b. ~~(bb)~~ "Alluvium" is a general term for clay, silt, sand, gravel or similar unconsolidated material deposited during comparative recent geologic time by a stream or other body of running water as a sorted or semi-sorted sediment.

c. ~~(cc)~~ "Glacial drift (unconsolidated)" means a general term applied to all rock material (clay, sand, gravel and boulders) transported by a glacier and deposited directly by or from the ice or by running water emanating from the glacier.

d. ~~(dd)~~ "Glacial outwash" means a stratified sand and gravel removed or washed out from a glacier by melt-water streams and deposited in front of or beyond the terminal moraine or the margin of an active glacier.

e. ~~(ee)~~ "Hardpan" is a term to be avoided if possible, but when used means a hard impervious layer composed chiefly of clay, cemented by relatively insoluble materials, which does not become plastic when mixed with water and definitely limits the downward movement of water and roots.

f. ~~(ff)~~ "Shale" means rock consisting of hardened silts and clays.

g. ~~(gg)~~ "Sandstone" means cemented or otherwise compacted sediment composed predominately of sand.

h. ~~(hh)~~ "Limestone" means rock which contains at least 80% of carbonates of calcium and has strong reaction with HCl (muriatic acid).

i. ~~(ii)~~ "Dolomite" means rock which contains at least 80% of carbonates of magnesium and has a weak reaction with HCl (muriatic acid).

a. ~~(aa)~~ The following table lists materials other than consolidated rock classified according to average particular size: (Wentworth 1922)

j. ~~(jj)~~ "Gypsum" means a soft light colored formation of calcium sulfate crystals and may be found as streaks in a shale formation.

13. ~~(+3)~~ "Grout" means neat cement, concrete, heavy drilling mud or heavy bentonite water slurry. Heavy drilling mud or heavy bentonite water slurry when used as grout shall be of sufficient viscosity to require a time of at least 70 seconds to discharge 1 quart of the material through an API (American Petroleum Institute) marsh funnel viscometer.

14. ~~(+4)~~ "Municipality" means a city, village, township, borough, county, district or other political subdivision of the State created by or pursuant to State law or any combination of such units acting cooperatively or jointly.

15. ~~(+5)~~ "Pitless adapter" means a device or assembly of parts which will permit water to pass through the wall of the well casing or extension thereof, and which provides access to the well and to the parts of the water system within the well in a manner to prevent entrance of pollution into the well and the water produced.

16. ~~(+6)~~ "Pollution" or "contamination" means the presence or addition of any substance to water which is or may become injurious to the health, safety or welfare of the general public or private individuals using the well; which is or may become injurious to domestic, commercial, industrial, agricultural or other uses which are being made of such water.

17. ~~(+7)~~ "Potable water" means water which is safe for human consumption in that it is free from impurities in amounts sufficient to cause disease or harmful physiological effects.

18. ~~(+8)~~ "Pressure tank" or "hydropneumatic tank"

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means a closed water storage container constructed to operate under a designed pressure rating to modulate the water system pressure within a selected pressure range.

19. ~~(19)~~ "Priming" means the first filling of a pump with water and the action of starting the flow in a pump.

20. ~~(20)~~ "Pump house" means a building constructed over a well exclusively to protect the well, pump, and water treatment equipment.

21. ~~(21)~~ "Pump room" or "well room" means an enclosed structure, either above or in a below grade approved basement housing the pump, top of the well, a suction line or any combination thereof.

22. ~~(22)~~ "Pumping water level" means the distance measured from the established ground surface to the water surface in a well being pumped at a specified rate for a specified period of time.

23. ~~(23)~~ "Pumps and pumping equipment" means materials used or intended for use in withdrawing or obtaining ground water for any use, including without limitation, seals and other safeguards to protect the water from pollution and together with fittings, and controls to provide sanitary water storage facilities. "Installation of pumps and pumping equipment" means the selection of, and procedure employed in the placement and preparation for operation of, pumps and pumping equipment, including construction involved in making entrance to the well and establishing proper seals and other safeguards to protect ground water from pollution, including repairs to existing installations.

24. ~~(24)~~ "Sewage" means the water carried waste products from residences, public buildings, including the excrementious or other discharges from the bodies of human beings or animals together with such ground water infiltration and surface water as may be present.

25. ~~(25)~~ "Cesspool" means an underground pit into which raw household sewage or other untreated liquid waste is discharged and from which the liquid seeps into the surrounding soil or is otherwise removed.

26. ~~(26)~~ "Seepage pit" or "dry well" means an underground pit into which a septic tank discharges household sewage or other liquid waste and from which the liquid seeps into the surrounding soil through the bottom and openings in the side of the pit.

27. ~~(27)~~ "Septic tank" means a watertight tank of dur-

able materials through which sewage flows very slowly and in which solids separate from the liquid to be decomposed or broken down by bacterial action.

28. ~~(28)~~ "Sewer" means a pipe or conduit carrying sewage or into which sewage may back up.

29. ~~(29)~~ "Subsurface disposal field," "seepage bed," "drainfield," "percolation system," or "tile absorption field" means a system composed of open jointed tile lines buried in stones and shallow trenches or beds for final disposal into the ground of sewage affluent from a septic tank. The septic tank effluent is applied to land by distribution beneath the surface through the open jointed lines.

30. ~~(30)~~ "Static water level" means the distance measured from the established ground surface to the water surface in a well neither being pumped, nor under the influence of pumping nor flowing under artesian pressure.

31. ~~(31)~~ "Subterranean gas" means a gas occurring below the land surface. It may be flammable such as methane or highly toxic as hydrogen sulfide and may be associated with ground water.

32. ~~(32)~~ "Suction line" means a pipe or line connected to the inlet side of a pump or pumping equipment or any connection to a well casing that may conduct non-system water into the well because of negative pressures.

33. ~~(33)~~ Water varieties mean:

a. ~~(aa)~~ "Ground water" means the water in the zone of saturation in which all of the pore spaces of the subsurface material are filled with water. The water that supplies springs and wells is ground water.

b. ~~(bb)~~ "Near surface water" means water in the zone immediately below the ground surface. It may include seepage from barnyards, disposal beds or leakage from sewers, drains, and similar sources of pollution.

c. ~~(cc)~~ "Surface water" means water that rests or flows on the surface of the ground.

34. ~~(34)~~ "Well" means water well as defined in Minn. Stat. § 156A.02, subd. 1 (1976).

35. ~~(35)~~ "Well seal" means a device or method used to protect a well casing or water system from the entrance of any external pollutant at the point of entrance into the casing of a pipe, electric conduit or water level measuring device.

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36. (36) "Well vent" means an outlet at the upper terminal of a well casing to allow equalization of air pressure in the well and escape of toxic or flammable gases when present.

37. (37) "Yield" or "production" means the quantity of water per unit of time which may flow or be pumped from a well under specified conditions.

D. (4) Policies.

1. (1) The rules and regulations, 7 MCAR § 1.210-1.230, ~~MHD 210-230~~, shall apply to all water wells in the State of Minnesota except those specifically exempted by the Act. Those aspects covered are the construction of new wells, the repair and maintenance of wells where specified, ~~and~~ the proper abandonment of wells, and the proper isolation of possible sources of contamination from existing wells to protect the quality of ground water aquifers for providing safe drinking water supplies.

2. (2) Public water supply. In accordance with 7 MCAR § 1.136 ~~MHD 136~~ (formerly Reg. No. 10873), no system of water supply, where such system is for public use, shall be installed by any public agency or by any person or corporation, nor shall any such existing system be materially altered or extended, until complete plans and specifications for the installation, alternation, or extension, together with such information as the State Board of Health commissioner may require shall have been submitted in duplicate and approved by the Director insofar as any features thereof affect or tend to affect the public health. No construction shall take place except in accordance with the approved plans. The plans for the well shall conform as specified by this well code. No municipal well may be drilled without approval of the site by the Director.

3. (3) Modification by the Board commissioner

a. (aa) When the strict applicability of any provision of these regulations present practical difficulties or unusual hardships, the Board commissioner, in a specific instance, may modify the application of such provisions consistent with the general purpose of these regulations and the Act and upon such conditions as are necessary, in the opinion of Board commissioner, to protect the ground water of the State and the health, safety, and general well-being of persons using or potential users of the ground water supply.

b. (bb) The licensee shall state the specific exceptions requested plus explain in detail the reasons for such request. Any request for modification shall be submitted to the administrative authority in writing and shall be signed by both the owner and the licensee. Request for modification of the isolation distance from existing wells shall be submitted and signed by the owner. In addition, any experts or persons involved in providing documentary evidence in support of

the request shall sign the request submitted by the owner. Such request shall specify in detail the nature of the modification being sought and the reasons therefor. The request shall also include: the proposed well depth, casing type and depth, method of construction and grouting, and location of well and of possible sources of contamination. Whether or not the requests are granted, the Board commissioner shall state in detail the reasons for ~~its~~ the decision.

c. The owner of a water well is bound by all the provisions of 7 MCAR § 1.210-1.230 which relate to location, construction, maintenance and abandonment of wells.

7 MCAR § 1.211 MHD 211 Licensing.

A. (a) Qualifications.

1. (1) All applicants shall meet the following requirements:

a. (aa) A minimum of three (3) years' experience in water well drilling.

b. (bb) Honesty, integrity, and an ability to perform the work of a water well drilling contractor.

c. (cc) Submission to the Board commissioner of properly completed applications.

2. (2) All applicants must successfully complete the examination provided for in the Act and in these rules and regulations.

B. (b) Applications and fees.

1. (1) All applicants shall submit two (2) applications. The first one shall be an application for examination. If the applicant qualifies, then he shall submit an application for licensure.

2. (2) Application for examination.

a. (aa) An application for examination shall be submitted to the Board commissioner on forms provided by ~~it~~ him. The application shall be accompanied by the filing fee of \$50.00. The fee shall be paid using only a money order, bank draft, or certified check made payable to the Minnesota State Treasurer.

b. (bb) The Board commissioner shall not act upon the application until ~~it~~ he has received reference letters from individuals who are familiar with the applicant's work experience, honesty, integrity, and ability to perform the work of a water well drilling contractor.

c. (cc) The filing fee for an application for examination shall not be refunded for any reason except when an

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applicant is not found to be qualified to take the written examination.

3. ~~(3)~~ Application for licensure.

a. ~~(aa)~~ Upon satisfactory completion of the examination, the applicant ~~may~~ must apply for a license within one year of the date on which he is notified of passing the exam, upon forms provided by the Board commissioner.

b. ~~(bb)~~ The application shall be accompanied by a license fee of \$50.00. The fee shall be paid using only a money order, bank draft, or certified check made payable to the Minnesota State Treasurer. This fee shall not be refunded for any reason.

4. ~~(4)~~ If an applicant passes the examination or qualifies for licensure but the Board commissioner does not receive his application for licensure within one year from the date of the letter from the Board commissioner notifying him of his eligibility for licensure, then no license may be issued. Such an applicant, in order to become licensed at some later date, shall requalify by submitting a new application for examination and the prescribed fee.

5. ~~(5)~~ An individual may apply for examination as many times as he desires. Each application must be accompanied by the filing fee as prescribed by the Act.

C. ~~(c)~~ Council evaluation of applicants.

1. ~~(1)~~ The Council shall evaluate each applicant and forward its recommendations to the Board commissioner.

2. ~~(2)~~ The Board commissioner or Council may conduct oral interviews and require sworn affidavits and other supporting evidence to determine qualifications of the applicant.

D. ~~(d)~~ Examination.

1. ~~(1)~~ No applicant shall be permitted to take the examination unless he has submitted an application for examination, the accompanying filing fee, and been determined to be qualified by the Council.

2. ~~(2)~~ The applicant shall take an examination which may be any combination of written, oral, or practical work as determined by the Board commissioner with the advice of the Council. Satisfactory completion of the examination is a mandatory prerequisite for licensure.

3. ~~(3)~~ An applicant which is a partnership, corporation, or other business association, shall designate one partner, officer, or other responsible full-time employee who shall be its representative to take the examination on its behalf. Upon licensure of the applicant, the representative shall be responsible for the supervision of all operations required of water well contractors by the Act and the rules and regulations adopted thereunder.

E. ~~(e)~~ Denial of application. An application for examination or license may be denied for any of the following reasons:

1. ~~(1)~~ Failure of the applicant to complete the application.

2. ~~(2)~~ Failure of the applicant to submit the application with the prescribed fee.

3. ~~(3)~~ Failure of the applicant to meet the experience, reference, examination, and other qualifications required by the Act and these rules and regulations.

4. ~~(4)~~ Other sufficient causes as determined after notice and hearing in accordance with APA.

F. ~~(f)~~ License and renewal.

1. ~~(1)~~ No person shall drill, construct, or repair a water well within this State unless in possession of a valid license to do so issued by the Board commissioner; provided, however, that persons installing or repairing pumps on a well shall not be licensed as water well contractors provided their work does not involve modifications to the well casing, screen, depth, or diameter below the upper termination of the well casing.

2. ~~(2)~~ The initial and renewal license shall not be transferable and expires on ~~December~~ January 31 of the year after that for which it was issued. The initial license shall contain the name of the licensee; the licensee's representative, if applicable; the date of issue; and the license number.

3. ~~(3)~~ Each licensee shall submit an application for license renewal on forms provided by the Board commissioner no later than ~~December~~ January 31 of the year ~~pre-~~ ceeding the year for which application is made. The license renewal application shall be accompanied by a fee of \$50. A penalty fee of \$10 shall also be paid if the renewal is submitted after the ~~December~~ January 31 deadline. Upon receipt of the application answered in a manner acceptable to the Board commissioner, a licensee shall be sent a renewal

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license. The renewal license shall consist of a card in duplicate and contain the name of the licensee; the licensee's representative, if applicable; expiration date; and license number. One card shall be kept posted with the original license. The other shall be carried by the licensee or his representative.

4. (4) Any licensee who does not renew his license within one year may have his license renewed only upon the recommendation of the Council and only after showing sufficient cause for not renewing. Until such showing is made and the renewal license issued, the licensee shall not work as a water well contractor.

5. (5) A person who acts as a representative may not be in the employ of any water well contractor other than the one he represents.

6. (6) In the case of those applicants who are subject to 7 MCAR § 1.211 D.3. MHD 211(d)(3), the licensee shall be the partnership, corporation, or other business association who that individual represents and not the representative.

a. (aa) When the representative leaves the licensee or is otherwise incapable of performing his responsibilities, the licensee shall inform the Board commissioner within five (5) days of such fact and give the name of a qualified individual acceptable to the Board commissioner, who shall be responsible for the acts of the licensee during the interim period while a new representative is being qualified. Although the licensee shall retain the same numbered license upon the licensing of the new representative, all applications, examinations, fees, and other requirements must be satisfied in order to qualify the new representative who must qualify within ninety (90) days. If he does not do so, the water well contractor shall be without a license and must cease operations.

b. (bb) If an individual has his own license and desires to act as a representative, or if a representative desires to obtain a license in his own name, the business association or the individual, as the case may be, need only submit an application for licensure and fee. The examination need not be retaken.

G. (g) Suspension or revocation of license; reinstatement.

1. (1) Suspension or revocation.

a. (aa) The Board commissioner may suspend or revoke the license of a water well contractor upon finding that the licensee has violated the provisions of the Act or the rules and regulations adopted thereunder. The Board commissioner may initiate such proceedings upon its his own motion or upon recommendation of the Council.

b. (bb) The Board commissioner or Council may cause an investigation to be made in any case in order to determine whether there has been a violation of the Act or of these rules and regulations, and, in so doing, may request the licensee to appear before them to determine the merits of the situation in question. In each case the Council shall make a recommendation to the Board commissioner as to whether proceedings under the Act and the APA would be appropriate.

c. (cc) Any disciplinary action taken under this section shall comply with the provisions of the APA.

d. (dd) A license may be suspended until certain conditions are fulfilled and/or for a specified period of time as determined to be most appropriate by the Board commissioner. The suspended or revoked license along with the current renewal certificates shall be returned to the Board commissioner by the licensee.

e. (ee) When the license of a water well contractor who is subject to the provisions of 7 MCAR § 1.211 D.3. MHD 211(d)(3) is revoked or suspended, the disciplinary action shall apply to both the licensee and its representative.

2. (2) Reinstatement.

a. (aa) A revoked license may not be reinstated. The licensee who has had his license revoked may be relicensed by filing the usual applications and fees, and by taking the examination. The Board commissioner shall require an investigation or hearing to determine whether the person should be issued a new license; provided, however, that in no case shall a new license be issued prior to one (1) year after the revocation has taken effect.

b. (bb) A licensee suspended for a specified period of time shall be automatically reinstated at the end of that time. Nothing herein shall be interpreted to prevent the making of such reinstatement conditional upon terms established by the Board commissioner in its his Order of Suspension.

c. (cc) A licensee suspended for an indefinite period of time may be reinstated at the Board's commissioner's own motion after due investigation to determine that the conditions upon which the suspension was based have been corrected or upon the Board commissioner receiving reasonable assurance to its his satisfaction that such conditions will not reoccur.

d. (dd) The person whose license has been revoked or indefinitely suspended may petition the Board commissioner for a hearing for reinstatement of his license. Such hearing shall be granted only upon a showing by the petitioner that reasonable grounds exist for such hearing.

H. (h) Placement of decals and license number.

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1. ~~(1)~~ A licensee shall place in a conspicuous location on both sides of each well drilling machine his license number in figures not less than three (3) inches high and one and a half (1½) inches wide. The number shall be in a contrasting color to the background.

2. ~~(2)~~ Decals designating the year for which the license was issued or renewed and the words, "MINNESOTA LICENSED WATER WELL CONTRACTOR," shall be affixed directly adjacent to and below the license number on each well drilling machine. Water well contractors using a rope spool or other devices for well installation shall attach their decal on a portable display to be shown at the well site. The decals shall be issued by the ~~Board~~ commissioner upon licensure and renewal.

I. ~~(I)~~ Well drilling machine registration.

1. ~~(1)~~ An initial or renewal license issued pursuant to Minn. Stat. ch. 156A (1976) and the Water Well Contractors Rules, 7 MCAR § 1.210-1.230 ~~Minn. Rules MHD 210-230~~, shall include the registration of one drilling machine. Each water well contractor shall pay an annual fee of \$5 for the registration with the ~~Board~~ commissioner of each additional drilling machine. Upon receipt of the required fee and information, a water well drilling machine registration card shall be issued for identification purposes for each drilling machine registered by the well drilling contractor. The card shall be carried on the water well drilling machine at all times where it may be inspected by the Director. The card expires on ~~December~~ January 31 of the year after that for which it was issued.

2. ~~(2)~~ The registration card and duplicate decals furnished for a water well drilling machine are not transferable. The card and decals shall be returned to the Director when a water well drilling machine is sold, traded, or otherwise disposed of. A registration card and two (2) new decals for a drilling machine so transferred will be provided upon receipt of the water well drilling machine registration fee, the old card, the two (2) old decals and application for the new drilling machine.

7 MCAR § 1.217 MHD 217 Location of wells.

A. ~~(a)~~ General considerations. A well shall be located consistent with the general layout and surrounding area giving due consideration of the size of the lot, contour of the land, slope of the water table, rock formation, porosity and absorbency of the soil, local ground water conditions, and other factors necessary to implement the basic policies that follow.

B. ~~(b)~~ A well ~~or spring or buried reservoir~~ shall be:

1. ~~(1)~~ Located on a site which has good surface drainage, at a higher elevation than, and at a sufficient distance from cesspools, buried sewers, septic tanks, privies, barnyards and feedlots, or other possible sources of contamination so that the supply cannot be affected thereby, either underground or from the surface of the ground.

2. ~~(2)~~ Located so that the well and its surrounding area can be kept in a sanitary condition.

3. ~~(3)~~ Adequate in size, design and development for the intended use.

4. ~~(4)~~ Constructed so as to maintain existing natural protection against pollution of water bearing formations and to exclude all known sources of pollution from entering the well.

5. ~~(5)~~ A well ~~should be~~ Located at least 5 feet from a property line. A well constructed to ~~meet~~ produce water for a community public water supply ~~municipal water supply standards~~ shall be located at least 50 feet from a property line. In locating ~~the any~~ well, consideration shall be given to the sources of contamination from adjacent property.

C. ~~(c)~~ Distance from pollution on contamination sources.

~~(1)~~ A well shall be at least:

a. ~~(aa)~~ One hundred fifty feet (150 ft.) from a preparation area or storage area of spray materials, commercial fertilizers or chemicals that may result in pollution of the soil or ground water.

b. ~~(bb)~~ One hundred feet (100 ft.) from a below grade manure storage area if in conformance with Minnesota Pollution Control Regulation SW52(2)(e).¹

c. ~~(cc)~~ Seventy-five feet (75 ft.) from cesspools, leaching pits and dry wells.

d. ~~(dd)~~ Fifty feet (50 ft.) from a buried sewer, septic tank, subsurface disposal field, grave, animal or poultry yard or building, privy, ~~petroleum storage tank, or any other sewage or liquid wastes~~ or other contaminants that may drain into the soil.

¹A below grade manure storage area may present a special hazard to ground water quality which may require a greater isolation distance than provided for in this rule depending upon hydrologic and geologic conditions.

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e. (ee) Twenty feet (20 ft.) from a buried sewer constructed of cast iron pipe or plastic pipe (ASTM 2665 for polyvinyl chloride pipe or ASTM 2661 for acrylonitrile-butadiene-styrene pipe, as prescribed in the Minnesota Plumbing Code, 7 MCAR § 1.123C.3, with tested watertight joints, or other material acceptable to the board, or a pit or unfilled space below ground surface, except an approved basement except that a well may be drilled closer than 20 feet to an approved basement, but no closer than as provided in 7 MCAR § 1.217 D.1. A community public water supply well shall be isolated at least 50 feet from any source of contamination.

f. (ff) Wells with casings less than 50 feet in depth and not encountering at least 10 feet of impervious material shall be located at least 150 feet from cesspools, leaching pits, or dry wells and at least 100 feet from a subsurface disposal field, manure storage pile or of other similar source of contamination.²

2. (z) The safe distance that a well should be located from a waste landfill or waste stabilization pond (lagoon) cannot be assigned a fixed number because of the varieties of hydrologic and geologic parameters associated with the undetermined types and amounts of materials that may be carried by ground water from leachates discharged from the waste landfill or waste stabilization ponds (lagoons). It is recommended that wells not be located in an area between the landfill or waste stabilization ponds (lagoons) sites and the point of ground water discharge to a surface water source.

3. (z) Any well that may intercept leachates from a waste landfill or waste stabilization pond (lagoon) by water withdrawal from the well shall not be used for potable water.

4. (4) Wells installed for ground water quality monitoring purposes are exempt from provisions related to safe depths and isolation distances from sources of contamination; however, their construction shall otherwise be in accordance with Minn. Stat. ch. 156A (1976) and rules adopted thereunder. All observation wells shall be protected from damage.

a. (aa) Temporary observation wells (as defined in 7 MCAR § 1.218 D.1.) shall be protected with a 6 foot high steel post and flag marker or sign.

b. (bb) Permanent observation wells (as defined in 7 MCAR § 1.218 D.2.) shall be protected with 4 steel posts as prescribed in 7 MCAR § 1.224 F.4.b.

²For example, a manure storage pile would be considered as a potential source of contamination to the well; however, the presence of animals in open pasture in an area would not necessarily concentrate contaminants to the degree that would cause contamination to enter the ground water.

5. (s) The administrative authority may modify the isolation distances in this rule for individual well installations. The request for modifications shall be made in writing to and signed by the licensee and the owner, with a copy to the Board either increasing or decreasing the minimum isolation distance and shall state the reasons for the modification request, based on overburden, depth of well, character of the aquifer, maximum pumping rate, or other factors affecting the movement of pollution. A request for modification of the isolation distance from existing wells shall be submitted and signed by the owner. In addition, any experts or persons involved in providing documentary evidence in support of the request shall sign the request submitted by the owner. The request shall also include: the proposed well depth, geological formations likely to be encountered, casing type and depth, method of construction and grouting, and location of the well on the property in relation to possible sources of contamination.

D. (d) Wells adjacent to buildings, gas lines or overhead electric power lines.

1. (t) A well shall be located:

a. (aa) At least 3 feet horizontally from a building or any projection thereof, except for a pumphouse, unless modified in writing by the administrative authority.

b. (bb) Accessible for cleaning, treatment, repair, test inspection, and other attention as may be necessary.

2. (z) No well shall be located within the footing of any building or room beneath the floor under which there are buried sewers.

3. (z) A well shall not be located within fifteen feet (15 ft.) of a gas line or overhead electric distribution line or twenty-five feet (25 ft.) from an electric transmission line which is in excess of 50kV except for the underground electrical service line to the well. These distances should be observed when locating a gas line or overhead electric line in the vicinity of an existing well or known proposed well. Where there is a question of the voltage in an electrical line the 25 foot distance should be observed or where less distance is required the utility company should be consulted for their recommendation for safe distances.

E. (e) Areas subject to flooding.

1. (t) A well shall not be located in areas subject to flooding unless the casing extends at least 2 feet above the level of the highest known flood of record or otherwise protected as prescribed in writing by the administrative authority.

2. (z) The ground surface immediately adjacent to the

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well casing shall be graded so that surface water is diverted away from the casing.

3. (3) The well shall be located at least 50 feet horizontally from the normal high water mark of a stream, river or lake and at a higher established ground surface elevation than the soil absorption system, septic tank, or other source of contamination.

4. (4) For a community public water supply:

a. The surface of the ground at the well site shall be at least two feet above the highest known water level of any lake, pond, river, stream or any other body of surface water, the waters of which at the highest level would approach to within 50 feet measured horizontally of the well.

b. The earth surfaces shall be sloped to drain away from the well and be so graded as to prevent the accumulation and retention of surface water within 50 feet of the well.

c. Filling shall be protected from erosion by rip-rap or other suitable means.

5. Radial water collector. Projection of collectors shall be in areas and at depths approved by the Director. The exact location of all caisson construction joints and porthold assemblies shall be indicated. The caisson wall shall be substantially reinforced. Procedures shall be employed which will assure minimum vertical rise of the collectors. The top of the caisson shall be covered with a watertight floor and pump openings shall be curbed. Pump discharge piping shall not be placed through the caisson walls. There shall be no construction joint within 10 feet of the original ground surface.

7 MCAR § 1.218 MHD 218 General protection of ground water quality and resources.

A. (a) Re-use of water, disposal, recharge or gas storage wells.

1. (1) A well for the storage of gas or liquid under pressure may not be drilled without first having secured a permit therefor from the Commissioner of Natural Resources in accordance with Minn. Stat. §§ 84.57-.58 (1976).

2. (2) Water used for cooling parts of engines, air compressors, or other equipment or water used for air condition-

ing, shall not be returned to any part of the potable water system.

3. (3) A well shall not be used for disposal of surface water, near surface water, or ground water or any other liquid gas or chemical.

B. (b) Maintenance and repair of wells.

1. (1) Every well shall be maintained in a condition whereby it will conserve and protect the ground water resources, and whereby it will not be a source or channel of contamination or pollution to the water supply of that well or any aquifer.

2. (2) All materials used in maintenance, replacement, or repair of any well shall meet the requirement of these regulations for new installation.

3. (3) Broken, punctured, or otherwise defective or unserviceable casing, screens, fixtures, seals, or any part of the well head shall be repaired or replaced. The well shall be abandoned in accordance with the requirements of these regulations if such repair or replacement is not performed.

4. (4) Repairs to wells completed with the well head terminating below ground (buried seal) where practicable, should include extending the well casing (pitless adapter) above the land surface. Extension of the casing above grade shall be accomplished in accordance with rules and standards for new wells.

5. (5) Before acid treating a well, 7 MCAR § 1.218. B.4. MHD 218(b)(4) shall be complied with to prevent a hazardous condition caused by release of H₂S (hydrogen sulfide) or other toxic gases in a pit or confined space. All confined spaces shall be blown out with fresh air before entry and a supply of fresh air provided during occupancy. Pits or chambers should not be entered without a lifeline and adequate lifting power on the surface to quickly haul up a worker. Where there is any question whether the air supply procedure has provided a safe atmosphere, a self-contained breathing apparatus shall be worn (ordinarily canister-type gas masks do not protect against atmospheres low in oxygen).

C. (c) Abandonment of wells. Any water well which is to be abandoned must be abandoned in accordance with these rules. The owner of a well which is no longer being used will be ordered to sample the well and to disinfect or otherwise pump or remove the contamination before the well is plugged. If a well provides a potential or actual source of

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contamination for the aquifer, the commissioner may order that the well be permanently plugged and abandoned.

1. ~~(1)~~ Temporary.

a. ~~(aa)~~ Prior to placement into service or when temporarily removed from service, the well shall be sealed with a water-tight steel cap. A well removed from service and not permanently abandoned may be temporarily abandoned if approved in writing by the commissioner. The licensee and the owner shall submit a request for temporary abandonment on forms provided by the Department.

b. ~~(bb)~~ The well shall be maintained whereby it is not a source or channel of contamination when not in service.

c. ~~(cc)~~ Until a well is permanently abandoned by sealing procedures, all provisions for protection of the water against contamination and pollution and for maintaining satisfactory sanitary conditions around the well shall be carried out to the same extent as though the well were in routine use.

2. ~~(2)~~ Permanent.

a. ~~(aa)~~ General. A well that is to be permanently abandoned shall be disconnected from the system and the hole filled to prevent contaminating materials from entering the water-bearing ground formations. Concrete or cement grout shall be used for sealing material; however, if the well is so large that the use of these materials is not practical, the filling materials should be selected so as to restore natural conditions as nearly as possible. Neat cement grout or concrete as defined in 7 MCAR § 1.220 C. ~~MHD 220(e)~~ (grouting) and 7 MCAR § 1.210 C.13. ~~MHD 210(e)(13)~~ are satisfactory for filling parts of wells in rock formations. Sand and heavy drilling fluid may be used in sand and gravel sections of wells.

b. ~~(bb)~~ All materials, debris and obstructions that may interfere with sealing operations shall be removed from the well. Liner pipe shall be removed or perforated when necessary to assure placement of an effective seal. The administrative authority will be consulted for instruction in case of abandonment of a contaminated well or where there is a question of proper procedure.

c. ~~(cc)~~ All casing and screen may be salvaged except casing that has been cemented in place. The well shall be filled with appropriate sealing materials as described in 7 MCAR § 1.218 C.2.a. ~~MHD 218(e)(2)(aa)~~ prior to removal of the casing.

d. ~~(dd)~~ The top of the hole shall be filled with 10 feet of cement or concrete grout to within 2 feet of the land

surface. Casing remaining in the hole shall be cut off at least 2 feet below land surface. The remaining top 2 feet of hole shall be filled with native top soil.

e. ~~(ee)~~ An abandoned well shall be filled and sealed by one of the following methods in accordance with the materials penetrated, in such a manner as to prevent it from acting as a channel for pollution. A report of the method of sealing shall be filed with the ~~Board~~ commissioner on water well record forms provided:

(1) ~~(ee1)~~ A well in unconsolidated deposits shall be filled with clean sand and puddled clay, neat cement grout or concrete grout to provide a permeability no greater than the natural condition.

(2) ~~(ee2)~~ The section of a well in a cavernous or creviced rock (such as cavernous limestone or basalt lava rock, creviced granite, etc.) shall be filled with concrete or neat cement grout or alternate layers of concrete or neat cement grout, gravel or stone aggregate. The filling shall be completed at the top by a layer of neat cement grout or concrete grout extending at least ten feet (10 ft.) into the above underlying formation and finished as provided in 7 MCAR § 1.218 C.2. ~~MHD 218(e) (2)~~.

(3) ~~(ee3)~~ When concrete, cement grout, puddled clay or heavy drilling fluid is used for sealing an abandoned well, it shall be inserted in the well through a grout pipe from the bottom of the well upward to the surface under pressure and in one continuous operation.

(4) ~~(ee4)~~ Test wells shall be sealed to prevent the well from being a channel for the vertical movement of water and a source of contamination to the ground water supply in accordance with well abandonment provisions of 7 MCAR § 1.218 C. ~~MHD 218(e)~~.

(5) ~~(ee5)~~ The flow in a flowing well shall be confined, if possible, and the well filled in accordance with well abandonment provisions of 7 MCAR § 1.218 C. ~~MHD 218(e)~~.

f. ~~(ff)~~ The owner shall be responsible for the permanent sealing of an abandoned well except:

(1) ~~(ff1)~~ As mutually agreed upon in a written contract between the owner and licensee and in accordance with these rules and regulations to protect the ground water aquifer.

³ Proper judgment shall be exercised in the feasibility and practicability of sealing flowing wells. In some cases the confining formation may have been so badly disturbed that sealing may only cause the flow to discharge in a less appropriate location. In other situations, the flow may have eroded so much material that the landscape has taken on the appearance of a natural spring. The sealing in this case may be impracticable, if not impossible.

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(2) (~~ff2~~) When the licensee improperly locates, constructs, or completes the well or fails to meet the conditions of his contract; in which case the licensee shall be responsible for the sealing of the well.

g. (~~gg~~) A licensee shall permanently abandon any well that he removes from service in accordance with 7 MCAR § 1.218 C. and shall report such abandonment to the commissioner. A licensee shall report to the Board commissioner any unsealed abandoned water well of which he becomes aware.

D. (~~d~~) Observation wells.

1. (~~1~~) Observation wells installed for a temporary (not to exceed a period of six (6) months) purpose of obtaining hydrologic or other data shall be constructed by such methods and of such materials that they are not a source or channel of pollution or contamination to any ground water supply or aquifer. All observation wells shall be abandoned in accordance with procedure described in rule 7 MCAR § 1.218 C. MHD 218(c).

2. (~~2~~) Permanent observation wells (exceeding a period of six (6) months) constructed for the purpose of obtaining hydrologic or other data shall meet the standards of construction for water supply wells except when prior permission has been obtained in writing from the Board commissioner exempting the well from meeting specified standards established by these regulations.

E. (~~e~~) Test holes and borings. Test holes shall be permanently abandoned and sealed by the well contractor after the drilling, logging and testing have been completed unless:

1. (~~1~~) The owner or his agent has submitted a request to the director and obtained his written permission to extend the time limit, or

2. (~~2~~) The well is being completed as a water supply or other approved type well.

F. (~~f~~) Dewatering and depressurizing wells.

1. (~~1~~) Dewatering and depressurizing wells shall be constructed in a manner and with such materials to prevent the contamination of the ground water system. Discharges from the dewatering system shall not be cross connected to a potable water supply.

2. (~~2~~) Temporary water supply. There may be incidents during construction where nearby residences with private water supplies will lose their source of supply during de-

watering operations. If such a situation occurs, the licensee shall cooperate with the homeowner as may be required to provide a temporary supply of water during construction operations, including, but not necessarily limited to, supplying bottled water for drinking and cooking purposes and potable bulk water for other uses.

3. (~~3~~) The Board commissioner shall be notified prior to commencement of a ground water dewatering operation by the licensee. The licensee shall report the approximate area to be dewatered, the maximum depth to be dewatered, the number of wells to be affected, and the measures that will be taken to provide potable water to persons adversely affected by the dewatering operation. This may be reported by phone. The licensee shall retain the name of the Board's commissioner's staff member taking the information and shall report this information in writing to the Board commissioner within three days of commencement of the ground water dewatering operation.

4. (~~4~~) The licensee shall comply with any orders issued by the Board commissioner which may include but not be limited to the collection of water samples from wells in the dewatered area for analysis to determine any health hazards prior to the Board commissioner relieving the licensee of responsibility for furnishing a safe water supply to well owners in the area affected by the dewatering operation. If the licensee has been released of his responsibility but thereafter difficulties develop in the water supply of well owners in the area affected by the dewatering operation as a result of such operation, the licensee may again be required to comply with 7 MCAR § 1.218 F.2. MHD 218(f)(2).

G. (~~g~~) Elevator shafts. Wells constructed or holes drilled for the installation of elevator shafts or hydraulic cylinders shall be cased, sealed, and maintained in a manner to prevent the vertical movement of water as a source of contamination to the ground water or any aquifer and as approved by the Board commissioner.

H. (~~h~~) All other wells. All wells except those specifically exempted by the Act shall be constructed and maintained in accordance with standards for water supply wells except when prior exemption has been obtained from the Board commissioner.

7 MCAR § 1.219 MHD 219 Other water sources, cross connections and storage reservoirs.

A. (~~a~~) Storage reservoirs. If a storage reservoir, excluding a pressure tank, is used, plans shall be submitted to the administrative authority for approval. The plans shall meet

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the standards specified in the Manual of Water Supply Sanitation, Section VII, paragraph 715, published in 1969 by the Department.

B. (b) Other water sources. In cases where a potable water supply cannot be obtained by well drilling, permission may be granted by the administrative authority to use springs, infiltration tile lines, or other similar sources as a water supply or to install water treatment facilities. Plans and specifications for such facilities, together with operating procedures, shall be approved by the administrative authority. The plans shall meet the standards of the Manual of Water Supply Sanitation, Section VI, published in 1962 by the Department.

C. (c) Cross connections. ~~A physical connection is not permitted between a well meeting the requirements of these rules and another water supply which does not meet such requirements.~~ Cross connections between water wells and other systems or equipment containing water or other substances of unknown or questionable safety, including pesticides and fertilizers, are prohibited, except where equipped with a suitable protective device such as a break tank or backflow preventer which is approved by the commissioner and which the owner agrees to install, test and maintain to assure proper operation.

7 MCAR § 1.220 MHD-220 Standards for construction of wells.

A. (a) Casing for permanent wells.

1. (1) A permanent well casing used for the protective or outside casing shall be of at least standard weight (schedule 40) steel or iron pipe through 8 inches inside diameter. Larger diameter casing shall have minimum weights and thicknesses as specified in Table 1. Dimensions and weights of schedule 40 pipe are given in Standard 10-1959 of the American Standards Association, 29 West 39th Street, New York, New York and Standards A53-69a or A120-69 of the American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103. Casing for permanent wells shall be of ferrous material or, where permitted by statute, plastic material. For ferrous pipe, the specifications and installation procedures are prescribed below. For plastic pipe, the specifications and installation procedures are prescribed in 7 MCAR § 1.224.

2. (2) A protective well casing shall be watertight throughout its length, with threaded or welded joints or other types of joints given written approval by the Director. Recessed or reamed and drifted couplings shall be used on threaded casing, or, as an alternate, other couplings can be used but the design, taper and type of the thread of the coupling shall match that of the pipe. No thread shall be exposed on the pipe when the pipe is joined to the coupling.

Other casing design or materials shall be approved only by official written order of the Board commissioner.

3. Pipe used as the protective casing in the permanent construction of a well shall be new pipe produced to recognized standards of the American Society for Testing Materials, No. 5L (1970) of the American Petroleum Institute, 1271 Avenue of the Americas, New York, New York, or No. C201-66 and C202-64 of the American Water Works Association, 2 Park Avenue, New York, New York, or other grade weldable new pipe having a quality equal to or greater than those heretofore specified.

4. New pipe, when salvaged within 30 days of the drilling of a water well test hole or dry hole only, may be used as new pipe if still in new condition.

4. (5)0 Pipe shall be marked with the specification designation or marked "Meets Minnesota Well Construction Code Standards." Such markings shall include wall thickness, weight per foot and identification of supplier. The Board Commissioner may require that such pipe be submitted to an independent testing laboratory for evaluation and verification that the pipe will equal or exceed minimum standards. Failure of the pipe supplier to submit the pipe for evaluation and verification or failure of the pipe to meet minimum standards specified in 7 MCAR § 1.220 A.1. and 3. sufficient cause for automatic rejection of such pipe for use in well construction in Minnesota.

6. Pipe intended for water well use that is sold within this State, regardless of specification designation, is subject to random examination by the administrative authority who may require any lot of pipe or part thereof containing defective lengths to be rejected. Defective lengths or lots shall include, but not be limited to:

a. (aa) Pipe with girth welded joints,

b. (bb) Pipe with welded patches, and

c.c. (cc) Lots having more than 5% of the pipe with lengths less than 5 feet

7. (7) Temporary, inner, and protective casing; liner.

a. (aa) Temporary casings may be standard weight or lighter pipe, but lightweight material shall be of such minimum thickness as is required to withstand the structural load imposed by conditions both inside and outside the well.

b. (bb) In no case shall the inner casing or protective casing have a wall thickness of less than specified in Table 1. ~~The An~~ inner casing shall be surrounded by at least 2 nominal inches of neat cement grout when welded joints are used. Table 2 lists inner and outer pipe size combina-

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tions which would be appropriate to fulfill the requirements of this rule. If couplings are used the annular space shall be at least 4 inches in diameter larger than the outer diameter of the coupling. The annular space between the casing and open hole shall be grouted with neat cement, ~~or~~ concrete grout, or as provided in 7 MCAR § 1.220 D., E., or F. ~~MHD 220(d), (e), or (f).~~

c. ~~(ee)~~ ~~A liner~~ An inner casing shall be grouted for its entire length with the grout material being added from the bottom upward in one continuous operation or as provided in 7 MCAR § 1.220 F. ~~MHD 220(f).~~

Table 2
Permitted Inner and Outer Casing Combinations

Inner Casing in nominal inches	Outer Casing in nominal inches
2	6
4	8
5	10
6	12
8	14
10	16
12	18
14	20
16	22
18	24
20	26
22	30
24	30
26	32
30	36

d. ~~(dd)~~ Casings to be grouted shall be provided with sufficient centering guides, welded to the casing, to permit unobstructed flow and deposition of the grout.

8. ~~(8)~~ A well drilled for irrigation purposes in shallow continuous glacial outwash material penetrating non-artesian water may be constructed of pipe as specified in Table 2. The annular space shall be closed by washing the fine grained caving material around the casing.

Table 2. Gauges for Steel or Galvanized Steel Casing Irrigation Wells in Shallow Continuous Glacial Outwash Material Penetrating Non-artesian Water.

Diameter of Plain and Perforated Casing (inches)			Diameter of Corrugated Metal Pipe (inches)			
12	14	16	18	12	15	18
Gauge			Gauge			
12	10	10	10	12	12	12

Well casing in Table 2 shall be new pipe, however, salvaged pipe may be used if the condition of the salvaged pipe is yet of new pipe quality.

9. ~~(9)~~ Under no conditions shall the casing inside diameter be less than 2 inches except for a driven well point which shall be equipped with a casing pipe of at least 1½ inches inside diameter. The well shall also be of sufficient diameter to receive a pump or pumping apparatus of sufficient size to discharge the design capacity including anticipated decline in water levels.

10. ~~(10)~~ Minimum protective depths of wells.

a. ~~(aa)~~ All wells shall be watertight to such depth as may be necessary to exclude pollution. ~~Ground water structures~~ A well shall be constructed so designed as to seal off formation that are, or may be, contaminated or undesirable or contaminated with bacteria of sewage origin.

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Table 1
Casing Pipe Weight and Dimensions

Size in Inches	Wgt. Lbs. Per Ft.			Thickness in Inches	Diameter—Inches		Thrds. per Inch	Couplings	
	Plain End	Thrds. & Cplgs.*	Thrds. R&D Cplgs.		External	Internal		Minimum External Diameter Inches	Minimum Length Inches
1	1.68	1.68	1.70	.133	1.315	1.049	11½	1.576	2-5/8
1¼	2.27	2.28	2.30	.140	1.660	1.380	11½	1.900	2-3/4
1½	2.72	2.73	2.75	.145	1.900	1.610	11½	2.200	2-3/4
2	3.65	3.68	3.75	.154	2.375	2.067	11½	2.750	2-7/8
2½	5.79	5.82	5.90	.203	2.875	2.469	8	3.250	3-15/16
3	7.58	7.62	7.70	.216	3.500	3.068	8	4.000	4-1/16
3½	9.11	9.20	9.25	.226	4.000	3.548	8	4.625	4-3/16
4	10.79	10.89	11.00	.237	4.500	4.026	8	5.200	4-5/16
5	14.62	14.81	15.00	.258	5.563	5.047	8	6.296	4-1/2
6	18.97	19.18	19.45	.280	6.625	6.065	8	7.390	4-11/16
8	28.55	29.35		.322	8.625	7.981	8	9.625	5-1/16
10	40.48	41.85		.365	10.750	10.020	8	11.750	5-9/16
12	49.56	51.15		.375	12.750	12.000	8	14.000	5-15/16
14	54.57	57.00		.375	14.000	13.250	8	15.000	6-3/8
16	62.58	65.30		.375	16.000	15.250	8	17.000	6-3/4
18	70.59	73.00		.375	18.000	17.250	8	19.000	7-1/8
20	78.60	81.00		.375	20.000	19.250	8	21.000	7-5/8
22	86.61			.375	22.000	21.250			
24	94.62			.375	24.000	23.376			
26	102.63			.375	26.000	25.250			
30	118.65			.375	30.000	29.250			
32	126.66			.375	32.000	31.250			
34	134.67			.375	34.000	33.250			
36	142.68			.375	36.000	35.250			

*Nominal weight based on length of 20 feet including coupling.

Requirements will be fulfilled to the minimum extent when the protective casing has been installed in conformity with the applicable construction set forth in 7 MCAR § 1.220. MHD 220. Where it is not feasible to follow the standards contained in this section, the licensee shall obtain approval of the administrative authority as to the design of the well before proceeding. The acceptability of the formation for well development shall be based on the satisfactory results of analysis of the water. Any water-bearing formation yielding water which is contaminated, as evidenced by the presence of chemicals or bacteria of sewage origin, shall be regarded as unsatisfactory for well development use as a potable supply unless adequate treatment is provided. The Minnesota Department of Health shall be consulted for measures that may be feasible to adequately treat the water to provide a potable supply.

b. (bb) The casing of Any well for a potable water supply well constructed entirely in glacial outwash or alluvium earth formations shall in which the casing does not extend to a depth of 50 feet below established ground level or through at least 10 feet of impervious soil formation and at least 5 feet below the pumping water level and shall be located in accordance with 7 MCAR § 1.217C.1.f. MHD 217(c)(1)(ee).

11. (44) A well casing or extension thereof shall extend

vertically at least 12 inches above ground surface or above the floor of an approved basement offset, pump room or well room. However, in an above grade installation the casing shall extend at least 6 inches above the floor or slab.

12. (42) Well casing offsets are prohibited.

B. (b) Upper casing. A well casing used for a potable water supply shall not be used as a suction line unless protected by a standard weight outer casing to a depth of at least 10 feet. The top of both casings shall be finished in accordance with 7 MCAR § 1.222. MHD 222.

C. (c) Grouting

1. (4) A well having an open annular space around the casing, or between the surface casing and protective casing, or a liner and protective between an inner casing surrounded by an outer casing shall be grouted from the lower termination of the casing to the ground surface or to the base of the pitless adapter. Grouting shall be commenced without delay upon completion of drilling of the well or any portion of a well which must be grouted. Grouting shall be performed by adding the mixture through the casing or a grout pipe from the bottom of the space to be grouted upward to the surface in one continuous operation. Concrete grout may be used in the dry portion of a hole. Neat cement grout or concrete

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grout shall be allowed to set a minimum of 12 hours when hi-early cement is used or a minimum of 48 hours when regular cement is used, before drilling operations are resumed. Heavy drilling mud or heavy bentonite water slurry may be used as grout in wells developed in glacial drift. ~~Other materials of equivalent sealing properties shall have the written approval of the Director prior to their use.~~

2. ~~(2)~~ Concrete grout is a mixture of cement, sand and water, in the same proportion of 1 bag Portland cement (94 pounds) (ASTM C150-69a) and an equal volume of dry sand to not more than 6 gallons of clean water. Where large volumes are required to fill annular openings, gravel not larger than ½ inch size may be added. Concrete grout shall not be used as grout below the water level in the well.

3. ~~(3)~~ Neat cement grout is a mixture of 1 bag (94 pounds) of Portland cement (ASTM C150-69a) to not more than 6 gallons of clean water. Bentonite up to 2% by weight of cement to reduce shrinkage or other admixtures (ASTM C494-68) to reduce permeability and/or control time of set may be used.

4. ~~(4)~~ Heavy drilling fluid when used as grout in a rotary drilled well shall contain a high percentage of clay or bentonite to minimize shrinkage of the slurry within the annular space. Heavy bentonite water slurry is a mixture of 10% by weight of bentonite added to clean water or approximately 5% bentonite added to drilling mud. Bentonite shall contain 85% of the mineral montmorillonite and shall meet American Petroleum Institute specification standard 13A (March 1966). Saline, acid or alkaline substances or other additives to cause a temporary increase in viscosity of the bentonite slurry are not permitted.

D. ~~(D)~~ Rotary, bored or augered wells.

1. ~~(1)~~ Rotary, bored, or augered type wells shall be constructed with a watertight casing of 2" diameter or larger installed in an open hole having a diameter of at least 2" 4" larger than the maximum outside diameter of the casing. The annular space around the casing shall be tightly sealed in accordance with material and procedures described in 7 MCAR § 1.220 C. ~~rule 220(e).~~ A rotary, bored, or augered well completed in a drift formation may be sealed by pumping the well to collapse the formation; however, the top 20 feet below the land surface shall be sealed in accordance with 7 MCAR § 1.220 C. or § 1.220 F. ~~rule 220(e) or 220(f).~~ Any annular space remaining unfilled shall be grouted with neat cement or concrete using a tremie pipe to pump the grout under pressure from the bottom up in one continuous operation.

2. ~~(2)~~ Drilling mud additives shall be stored in clean containers and shall be free of material that may adversely affect the well, aquifer, or quality of the water to be pumped from the well.

E. ~~(E)~~ Driven casing wells.

1. ~~(1)~~ Where the upper drillhole is clay or similar material of 10 feet or more in thickness, the annular space between the drillhole and casing shall be kept filled with clay slurry or equivalent material when driving the protective casing. In lieu of this, a starting casing should be used and sealed with 20 feet of concrete grout. (When a pitless adapter is used, see 7 MCAR § 1.221 C.1. ~~MHD 221(e)(1).~~

2. ~~(2)~~ The bottom of the protective well casing shall be equipped with a drive shoe or otherwise protected from damage during construction of the well as dictated by drilling procedures and conditions of each particular well.

F. ~~(F)~~ Unconsolidated glacial drift wells. A well drilled into unconsolidated glacial drift may be completed with a tight seal made around the protective casing if the annular space is closed by washing the fine-grained casing material around the casing prior to disinfection of the well. Wells shall be pumped promptly after setting the casing until clear, and native materials shall be washed immediately into the annular space.

G. ~~(G)~~ Rock wells.

1. ~~(1)~~ Where rock is encountered, i.e., consolidated as opposed to unconsolidated geological material, at a depth greater than 25 feet from the surface the protective casing shall be equipped with a drive shoe which shall be driven firmly into stable rock to provide a tight joint that will prevent pollution or sand from entering the well. ~~A drive shoe is not required on a casing installed without driving and which is to be grouted with neat cement or concrete in an oversized hole.~~

2. ~~(2)~~ Where rock is encountered within 25 feet of the surface, an oversized hole 4 nominal inches larger in diameter than the casing shall be drilled and the casing sealed with neat cement grout to a sufficient depth to exclude water which is contaminated. shall be drilled. Such hole shall be 4 inches larger than the nominal casing size when welded construction is used, and 4 inches larger in diameter than the coupling if threaded joints are used. The annular space shall be pressure grouted with neat cement or concrete grout as prescribed in 7 MCAR § 1.220 D.1. to a depth sufficient to exclude water which is or may be contaminated.

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3. (3) In an area where a well can be developed only in fractured, jointed, but noncavernous rock, the casing may terminate in the formation if there is at least 25 feet of sand or clay material above the rock, there is no record of this rock containing contaminated or polluted water, and geologic conditions offer no natural direct surface or near surface water inlets into the rock aquifer. Where there is less overburden or deeper strata will not produce potable water, the administrative authority shall be consulted and its written approval obtained by the well owner for water treatment and well construction features necessary to provide a safe water supply.

H. (H) Cavernous rock wells.

1. (H) Geological formations which are creviced or cavernous should not be used as a source of ground water unless overlain by at least 50 feet of drift material and/or by a firm insoluble rock material extending for at least one mile horizontal distance from the well in all directions to render the movement of contaminated water in the formation to the well improbable. The casing shall extend at least 10 feet below the pumping level. The well shall be cased and grouted at least 10 feet below the pumping level. The drill hole shall be at least 4 inches larger in diameter than the nominal casing size if welded construction is used, and 4 inches larger than the couplings if threaded joints are used. The annular space shall be filled with neat cement or concrete grout as provided in 7 MCAR § 1.220 C. The acceptability from a sanitary standpoint of water obtained from a well developed in such a protected faulty geological formation will be dependent upon treatment of the water if the need for such is indicated by analytical studies of the water.

2. (2) Wells underlying cavernous rock. Where an adequate and safe water supply is available in a geological formation overlain by one or more faulty rock formations, all faulty rock formations should be completely cased off. The casing should extend at least 15 feet into the safe aquifer if such exists, or at least 15 feet into a stable, insoluble, noncavernous or noncreviced geological formation beneath the lowest faulty rock formation and above the aquifer and at least 10 feet below the pumping level. The drill hole extending through the creviced rock formation and 15 feet into the firm rock formation or aquifer should be at least 4 nominal inches larger in diameter than the couplings if threaded joints are used. The annular space shall be filled with cement grout as provided in 7 MCAR § 1.220 C. MHD 220(e).

3. (3) Protective mantle over cavernous and non-cavernous aquifer. Where any faulty rock formation which overlies a safe aquifer is itself overlain by a protective mantle of drift, or by a firm insoluble consolidated formation of sufficient depth and for a sufficient radius as described herein above, 7 MCAR § 1.220 H.1. (MHD 220(h)(1)), the casing need not extend through the protected faulty rock

formation. The casing shall also extend 10 feet below the pumping level. The acceptability of water taken from a well so constructed will be dependent upon treatment of the water, if the need for treatment is indicated by analytical studies of the water.

4. (4) ~~The acceptability of the cavernous limestone for producing a safe water supply may not be known until a well is drilled and the water analyzed. In this case an oversized hole may be drilled into cavernous rock for later use in drilling to a deeper sandstone or other acceptable aquifer. An oversized hole shall be 4 nominal inches larger in diameter than the casing line and couplings to be inserted for reaching the deeper aquifer. The smaller casing shall be of sufficient diameter to insert a pump of sufficient capacity to lift water to the surface for the required supply. The casing shall also extend at least 10 feet below pumping level. A well shall not provide water entry from more than one aquifer.~~

(5) ~~Wells terminating in cavernous rock for withdrawal of water for purposes other than domestic or community water supply shall be grouted in accordance with rule 220(e) to prevent vertical transfer of polluted or contaminated water between aquifers.~~

I. (I) Flowing artesian wells.

1. (I) Flowing artesian wells should be constructed to prevent erosion of the aquifer or the overlying confining mantle.⁴

2. (2) Flow control from a flowing artesian well shall be provided, consisting of valved pipe connections, water-tight pump connections or a receiving tank set at an altitude corresponding to that of the artesian head. A direct connection between the discharge pipe and a receiving tank or a sewer or other source of pollution or contamination shall be prohibited.

J. (J) Well screens. A well installed in unconsolidated sand and gravel aquifers shall ordinarily be fitted with a screen properly sized so the aquifer can be properly developed to produce sand-free water at the pumping rate of the permanent pump. Wells shall provide sand-free water to the extent that the sand will not interfere with the intended use and operation of the water supply system.

K. (K) Capping. Temporary capping of a well until the pumping equipment is installed shall be such that no pollution or foreign objects can enter the well.

L. (L) Yield test. Every well shall be test pumped to

⁴ This provision will not be interpreted so as to preclude licensees from attempting to drill a well in a flowing artesian area, when it is likely that a water well can be safely installed if proper precautionary measures are followed.

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produce a minimum initial supply of 600 gallons of sand-free water per hour if geological conditions permit. A well in which a pump of a capacity of 20 gallons per minute or more is to be installed shall be tested for yield and drawdown with periodic water level measurements being made where possible, during the drawdown and subsequent recovery periods. The well shall be test pumped at rates greater than is expected from the well during its normal usage as follows: up to 400 gpm — 1.5 times; 400 to 600 gpm — 1.4 times; 600 to 800 gpm — 1.3 times; 800 to 1,000 gpm — 1.2 times; 1,000 gpm and over — 1.1 times. Shallow nonartesian wells used for irrigation purposes may be test pumped at a rate equivalent to the yield of the aquifer and for a period of at least 12 hours. Wells shall be test pumped for a minimum of one hour or more if more is required by the well owner or as prescribed by the consulting engineer or hydrologist.

M. (m) Alignment. A well shall not vary from the vertical or alignment so as to interfere with installation and operation of the pump.

N. (n) Drilling water. Water used for drilling, development or rehabilitation purposes, other than from the well itself, shall be chlorinated clear water containing a free chlorine residual at the time of use and be conveyed in clean sanitary containers or water lines.

O. (o) Dug or bored wells. ~~This type of well is authorized where geological conditions preclude the possibility of developing a satisfactory drilled well. The wells shall contain a watertight cover. Pump openings shall be curbed. The isolation distances for dug wells from sources of contamination shall be the same as rule MHD 217(e)(1)(ee).~~

(1) Concrete Wall or Curbing The upper 10 feet of the wall or curbing shall be at least 6 inches thick and be poured in one operation. There shall be no construction joint within 10 feet of the original ground surface.

(2) Pre-cast Curbing Concrete well pipe, vitrified pipe, and similar forms of pre-cast curbing have construction joints that cannot be depended upon to be watertight. Where used, such pre-cast curbing shall be encased in a 6-inch thick neat cement or concrete grout placed in one operation to a depth of at least 20 feet.

I. A dug or bored well constructed with materials other than those authorized in 7 MCAR § 1.220 A. may be constructed only in glacial drift formations and shall:

a. be cased with material of sufficient strength to withstand the pressures of the formation;

b. be installed in an oversized hole at least 8" in diameter larger than the casing;

c. have the annular space between the casing and the formation filled 4 inches thick with neat cement or concrete grout to a depth sufficient to exclude water which is or may be contaminated;

d. be protected with a heavy, pre-cast overlapping concrete cover;

e. have pump openings sealed with concrete or cement as prescribed in c. above.

2. Prior to constructing a dug or bored well, the licensee shall obtain from the owner an agreement to the following conditions:

a. the owner will maintain the isolation distances prescribed in 7 MCAR § 1.217 C.1.;

b. once per year, or as otherwise prescribed by the Minnesota Department of Health, the owner will have the water from the dug or bored well analyzed for nitrate and for bacteria.

This agreement shall be documented on forms provided by the Minnesota Department of Health and shall be returned to the Department along with the water well record.

P. (p) Well development. The well shall be developed to remove:

(1) native silts and clays deposited on the aquifer face during the drilling,

(2) drilling fluid, and

(3) the predetermined finer fraction of the gravel pack, all of which shall be done to insure that the maximum practical specific capacity will be obtained from the completed well.

Q. (q) Disposal of material. Drilling mud, cuttings and discharged water shall not be disposed in a manner so as to create damage to public or private property. During the test

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pumping discharged water shall be piped to a point of overland drainage.

7 MCAR § 1.221 ~~MHD 221~~ Well casing seals and connections.

A. ~~(a)~~ Water level measurement design. Provisions shall be made in the well seal with a minimum ½-inch diameter threaded plug for future measurements of static and pumping water levels. A minimum 1-inch diameter threaded plug is preferred where feasible.

B. ~~(b)~~ Above-grade connections. An above-grade connection into the top or side of a well casing shall be at least 12 inches above the established ground surface or 2 feet above the regional flood level whichever is higher, and constructed so as to exclude dirt or other foreign matter by one or more of the following methods, as may be applicable:

1. ~~(1)~~ Threaded connection.
2. ~~(2)~~ Welded connection.
3. ~~(3)~~ Rubber expansion sealer.
4. ~~(4)~~ Bolted flanges with rubber gaskets.
5. ~~(5)~~ Overlapping well cap.

6. ~~(6)~~ Extension of the casing at least 1 inch into the base of a power pump mounted and sealed on a concrete pedestal and at least 12 inches above the established ground surface or the floor of an approved basement, pump room, or well room.

C. ~~(c)~~ Below-grade connection

1. ~~(1)~~ A connection to a well casing made below ground, or less than 12 inches above the established ground surface, shall be protected by threaded or welded joints or by pitless adapter. The threaded or welded joints or pitless adapter shall be approved by the ~~Board~~ commissioner on the basis of design and materials. A below-ground connection shall not be submerged in water at the time of installation. The Director will furnish a list of approved pitless adapters that meet the requirements of these rules. Native materials shall be packed tightly around the casing and pitless adapter after installation.

2. ~~(2)~~ A connection to a well casing located at least 12 inches above the floor of an approved basement offset is considered equal to an above-grade installation for residential use only. An approved basement offset shall be a room with a floor 12 inches above the floor of an approved basement, shall extend beyond the footings of the building. The well shall extend 3 feet beyond any roof projection. Any basement located in a regional flood zone shall not be con-

sidered an approved basement. Water from a well located within a basement offset of a farm home may be piped for use in other farm buildings.

D. ~~(d)~~ Other methods. Any other method of connection to a well casing shall be specifically approved in writing by the Director before installation.

7 MCAR § 1.222 ~~MHD 222~~ Pump installation.

A. ~~(a)~~ Pump and well rooms. A room housing pumping equipment or the top of a well casing shall be constructed above the established ground surface permitting access to the pump and well for maintenance or repair, or may be located below-grade if the containing room is located in or attached to an approved basement.

B. ~~(b)~~ Slabs, platform and floors. A well, except where an approved pitless adapter is used, shall be protected by a durable watertight concrete or equal slab, platform or floor, at least 4 inches thick, extending horizontally at least 1 foot in every direction from the well casing, and sloped to divert water away from the casing. A watertight seal, which may be asphalt or similar material to provide resiliency, shall be provided between the casing and the platform, pump room or approved basement floor or slab.

C. ~~(c)~~ Pumps and pumping equipment.

1. ~~(1)~~ A pump shall be constructed so that no unprotected openings into the interior of the pump or well casing exist.

2. ~~(2)~~ A hand pump, hand pump head, stand or similar device shall have a closed spout, directed downward, and a pump rod that operates through a stuffing box.

3. ~~(3)~~ A power driven pump shall be attached to the casing or approved suction or discharge line by a watertight connection, including flange connections, hose clamp type connections, or other flexible couplings, or shall have a base plate meeting the requirements of 7 MCAR § 1.221 A. ~~MHD 221(a).~~

4. ~~(4)~~ A pump shall be designed, installed and maintained so that priming is not required for ordinary use. Pumps installed for use only on a well water irrigation system are exempted but priming water shall be clear water free of contamination and carrying a chlorine residual. An irrigation well equipped with a centrifugal pump may be primed without chlorination when the pump is filled with water taken directly from the well.

D. ~~(d)~~ Water suction lines.

1. ~~(1)~~ A water suction line shall be constructed of copper, galvanized iron or steel, cast iron, or plastic pipe as

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approved by the Director, or other material given written approval by the Director. Aluminum pipe is acceptable for well water irrigation systems in addition to the above materials.

2. ~~(2)~~ A water suction line extending outside the well casing shall not be used unless protected by one or more of the following methods:

a. ~~(aa)~~ Fully exposed in an approved basement offset, pump room or well room and at least 12 inches above the floor of an approved below-grade structure.

b. ~~(bb)~~ Fully exposed above grade.

c. ~~(ee)~~ Lying within an outer casing with the annular space filled with water from the system and maintained at system pressure.

~~(dd) Surrounded by air space in a conduit which has a positive drainage by gravity to the ground surface or to an approved basement. Such conduit shall be directly connected to the well casing by a threaded or welded watertight joint. The openings into the casing shall be welded watertight or sealed in accordance with MHD 221. The total length of the suction line protected by the gravity drained conduit shall not exceed 20 feet.~~

3. ~~(3)~~ An unprotected suction line may be installed below grade only for nonpotable irrigation wells located in agricultural fields and installed in shallow glacial outwash material penetrating nonartesian aquifers for manifold collection systems under negative pressures provided the area is sufficiently isolated from potable water wells.

E. ~~(e)~~ Pump discharge lines. A buried discharge line between the well casing and the pressure tank in any installation, including a deepwell turbine or a submersible pump, shall not be under negative pressure at any time. If a check valve is installed in a buried water line between the well casing and the pressure tank, the water line between the well casing and the check valve shall meet the requirements for a suction line unless equipped with an air release valve. Pump discharge lines shall be materials as approved for suction lines in 7 MCAR § 1.222 D.1. ~~MHD 222(d)(1).~~ A frost proof yard hydrant shall be located at least 10 feet from the well.

F. ~~(f)~~ Pressure tanks. It is recommended that a pressure tank be installed in an approved pump room or well room. However, partially buried pressure tanks shall project horizontally above the ground or into an approved basement. A

totally buried pressure tank may be used if the manufacturer's unit has been approved in writing by the ~~Board~~ commissioner as to its design, type of material and specification for its installation. A pressure relief or air release valve on a pressure tank which may contain subterranean gases and which is located within a building shall be vented to the outside.

G. ~~(g)~~ Vents.

1. ~~(1)~~ All wells shall be vented. A casing vent shall be of materials complying with 7 MCAR § 1.222 D.1. ~~MHD 222(d)(1)~~ with watertight joints terminating at least 2 feet above the regional flood level or one foot above the established ground surface or the floor of a pump room, well room or approved basement, whichever is higher. The casing vent shall be screened and point downward. Vents may be offset provided they meet the provision of this rule. Any submersible pump shall be installed with a vented cap on the pitless adapter to prevent drawing near surface water, mud, sand, etc., into the well through shielding around the electric cable. Flowing artesian wells may be exempted if protected by a specially designed pitless adapter or if the casing is protected as provided in 7 MCAR § 1.220 B. ~~220(b).~~ For wells of an inch and one quarter diameter casing or as otherwise protected to insure that contaminated water will not enter the well not using a drop pipe venting is not required when equipped with a suction pump provided the casing is protected in accordance with 7 MCAR § 1.220 B. ~~MHD 220(b).~~

2. ~~(2)~~ If toxic or flammable gases are present, they shall be vented from the well. The vent shall extend to the outside atmosphere above the roof level at a point where the gases will not produce a hazard. Openings in pump bases shall be sealed watertight. If the type of gas is not known and is to be carried through the water supply, the administrative authority shall be consulted for proper identification and treatment.

H. ~~(h)~~ Sampling faucet. In a pressure water system provision shall be made for collection of water samples by installation of a faucet or sampling device in a convenient location as near to the well as possible.

I. ~~(i)~~ Disinfection.

1. ~~(1)~~ A new, repaired, or reconditioned well or pump installation shall be thoroughly pumped to waste until the water is as clear as is reasonably possible, dependent upon ground water conditions in the area. Thereafter the well and pumping equipment shall be disinfected with

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chlorine so applied that a concentration of at least 50 parts per million of chlorine shall be obtained in all parts of the well. The chlorine solution shall be introduced into the well in a manner to flush the well surfaces above the static level with chlorine solution. A minimum contact period of 2 hours shall be provided before pumping the well to waste and flushing the chlorine solution from the distribution system.

2. ~~(2)~~ A licensee shall be responsible for chlorinating the work he performs on the well, pump or pumping equipment.

3. ~~(3)~~ Disinfection in a well repair operation may be accomplished at the beginning of the operation with chlorine applied to obtain a concentration of 200 parts per million for the period of the well repair operation. The water shall be pumped to waste prior to taking of water samples or use being made of the water.

7 MCAR § 1.223 ~~MHD 223~~ Records and samples.

A. ~~(a)~~ Water sample.

1. Prior to placing the ~~supply from a new or reconditioned~~ well into service, the licensee will be responsible for collecting one or more water samples from the installation for water quality analysis. Such samples shall be submitted to the Minnesota Department of Health in containers and in accordance with procedures issued by the Director. The results of the data will be stored in a ground water quality information system. The sample must be received within 30 hours of collection. Results of water sample analysis for a domestic supply not acceptable for drinking water will be reported to the well owner and the licensee along with recommendations for corrective actions. The results of the sample analysis is not intended to provide a basis of water quality for a transaction involving the sale or purchase of property.

2. If the licensee chooses to submit the water sample to a laboratory other than that of the Minnesota Department of Health, that laboratory must be certified by the Minnesota Department of Health for determination of the presence of coliform bacteria. The costs of such analysis shall be paid by the licensee. Results of the analysis shall be submitted to the Minnesota Department of Health.

B. ~~(b)~~ Water well records.

1. ~~(1)~~ A water well record shall be completed and submitted to the Board commissioner by the licensee within 30 days after completion of any well. The licensee shall furnish the well owner one copy, the Director three copies and retain one copy in his files, of a well record containing such available information as required on the form furnished

by the Director. Terms when used for describing formations on the well log form shall conform to definitions set forth in these rules.

2. ~~(2)~~ A water well record shall be submitted for a dry hole. Information on several dry holes within a small area may be submitted on a single well record form if the geologic materials are similar.

3. ~~(3)~~ A well record shall be submitted after an abandoned well has been sealed showing the method of sealing.

C. ~~(c)~~ Water well cutting formation samples. In order to improve the State's water information system, more detailed geologic and hydrologic information is needed about the rocks and sediments which contain the State's groundwater resources. Water well cuttings provide the least expensive source of this kind of information. The information derived from such a program is essential to the better understanding and protection of the State's groundwater resources. The following rules and procedures set forth the means by which such information shall be obtained.

1. ~~(1)~~ The Board commissioner in consultation with the Minnesota Geological Survey (hereinafter referred to as the Survey) shall determine areas where water well cutting samples are needed to provide subsurface geological and hydrological information required by the Board commissioner, the Survey, and other State agencies for development of the State water information system. The general standards to be used in making such a determination are:

a. ~~(aa)~~ To obtain the minimum amount of detailed geologic and hydrologic information needed for the State water information system, at least one set of water well cutting samples per township in rural areas and at least one set of water well cutting samples per section in urban areas are required. The latest State Planning Agency Land-Use Map will be used for determining rural and urban areas for collection of well cutting formation samples.

b. ~~(bb)~~ The Board commissioner in consultation with the Survey may determine that more information is required from specific areas for accuracy and detail in the State water information system.

c. ~~(cc)~~ Water well cutting samples will be required only where there is reason to believe that a well will encounter bedrock materials below glacial sediments or from a well which the licensee estimates will reach a depth of at least 200 feet. The Board commissioner may require water well cutting samples from areas other than as specified in

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this subsection where needed for accuracy and detail in the State water information system.*

2. (2) The Board commissioner through the Survey shall notify licensees of the general areas from which water well cutting samples are required and provide the licensees most frequently operating within such areas with maps or lists indicating counties, townships, section, or other designated areas where cutting samples are required. In addition, the Board commissioner shall specify the approximate number and depths of wells from which cutting samples are needed in the designated areas.

3. (3) The Survey shall furnish all licensees so notified with well-cutting sample bags, labels, and return postage cards for collecting and reporting water well cutting samples.

4. (4) Licensees so notified and supplied with sample collecting materials shall collect cutting samples during the course of drilling wells in the designated areas according to the requirements specified in the notification. Licensees not supplied with sample collecting materials but who shall have occasion to drill a well in an area designated for sampling shall notify the Survey.

5. (5) Licensees shall collect the cutting samples in an accurate manner so as to insure that they are representative of the materials encountered. Samples shall be taken at 5-foot intervals and at every change in rock or sediment type. The cuttings shall be placed in the sample bags provided by the Survey which shall have an attached tag on which the Board's commissioner's recording form well-record number of the well, the well owner's name, the well location, and the sample depth (example: 5 ft.) must be written.

6. (6) Licensees shall notify the Survey within 30 days after the well's completion so that the cutting samples can be collected. Pending collection, the contractor shall store the samples in a proper manner, so that they are protected from weather and disturbance and segregated in such a way that all samples may be properly identified with respect to the Board's commissioner's recording form well-record number and depth interval.

*Any licensee who has reason to believe that a well may be of exceptional geologic or hydrologic interest is encouraged to call collect the Survey to inform that agency of the opportunity to obtain samples, even if the well is not within the area currently designated for collection of samples.

7. (7) The Survey, upon notification by the licensee, shall collect the samples from the contractor. The cutting samples shall be described and a geologic log prepared. The geologic log will be retained in the files of the Minnesota Geological Survey, with a copy being sent to the contractor.

7 MCAR § 1.224 Plastic well casing. In addition to complying with ~~MHD 240-223~~ (7 MCAR §§ 1.210-1.223), an installer who uses plastic well casing* must comply with the provisions of this rule with regard to construction and installation.

A. Definitions. The following terms shall have the meanings given them.

1. Installer means any person who constructs a well using plastic casing, whether or not such person is a driller or contractor who is licensed pursuant to Minn. Stat. ch. 156A (1976).

2. Plastic, when used in ~~MHD 240 through 224~~ (7 MCAR §§ 1.210-1.224), means a thermoplastic pipe or casing material composed of either polyvinyl chloride (PVC) or acrylonitrile-butadiene-styrene (ABS).

B. Standards.

1. Any plastic pipe used for water well casing shall meet the standards of the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania, 19103, which are referenced as Standard Specification for Thermoplastic Water Well Casing Pipe and Couplings Made in Standard Dimension Ratios (SDR), ASTM F-480. Such pipe shall be capable of withstanding pressures equal to or greater than 200 pounds per square inch (p.s.i.). Table 1 lists the pipe included in ASTM F-480 which meets the 200 p.s.i. rating.

Table 1
Standard Thermoplastic Dimension Ratios (SDR) and Water Pressure Ratings (PR) at 23°C(73°F) for Non-Threaded PVC and ABS Plastic Pipe Equal to or Greater Than 200 p.s.i.

Pressure Rating of PVC Pipe Materials		
PVC 1120		
PVC 1220	PVC 2116	PVC 2112
PVC 2120		

*Minn. Stat. § 156A.031 (1977 Supp.), permits the use of plastic well casing only in the following counties: Traverse, Grant, Douglas, Stevens, Pope, Big Stone, Swift, Lac qui Parle, Chippewa, Kandiyohi, Yellow Medicine, Renville, Lincoln, Lyon, Pipestone, Murray, Rock and Nobles.

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SDR	p.s.i.	p.s.i.	p.s.i.
13.5	315	250	200
17	250	200	
21	200		

Pressure Rating of ABS Pipe Materials

SDR	p.s.i.	p.s.i.
13.5	250	200
17	200	

2. Any plastic pipe, couplings, or components used in water well casing construction shall have the approval of a testing laboratory which has demonstrated the use of unbiased, reliable and appropriate testing methods, as determined by the Commissioner of Health. Such laboratory must approve the material as being intended for use in the transport of potable water. This approval shall be stamped on the pipe as prescribed below.

3. Pipe markings.

a. Well casing pipe. The plastic well casing pipe shall be marked at least every 1.5 m (5 ft.), in letters not less than 5 mm (3/16 in.) high in a contrasting color with the following information:

- (1) Nominal well casing pipe size (for example, 5 in.), as specified in ASTM-F-480,
- (2) Well casing pipe standard dimension ratio, in accordance with designation code given in Table 1 (for example, SDR 17, 1316),
- (3) Type of plastic casing pipe material (for example, ABS or PVC),
- (4) The wording — “well casing” — followed by the impact classification (for example, IC-3),
- (5) Designation “ASTM F-480” including the year of issue of the standard with which the well casing pipe complies,
- (6) Manufacturer’s name or trademark,
- (7) Manufacturer’s code for resin manufacture, lot number, and date of manufacture,
- (8) The seal or mark of the laboratory making the evaluation of the plastic for potable water use spaced at intervals specified by the laboratory, and
- (9) Pressure rating (must be 200 p.s.i. or more).

b. Well casing pipe coupling, Plastic well casing pipe couplings shall be marked in letters not less than 5 mm (3/16 in.) high, with the following information:

- (1) Nominal well casing pipe coupling size (for example, 5 in.), as specified in ASTM-F-480,
- (2) Type of plastic well casing pipe coupling material (for example, ABS or PVC),
- (3) Designation “ASTM F-480,” including year of issue of the standard with which the well casing pipe coupling complies,
- (4) Manufacturer’s name or trademark, and
- (5) The seal or mark of the laboratory making the evaluation of the plastic for potable water use spaced at intervals specified by the laboratory.

C. Plastic well casing pipe size. Where a submersible pump is to be installed inside a plastic casing, the casing diameter shall be no less than five-inch nominal pipe size, as specified in ASTM-F-480.

D. Storage, handling and components. The installer shall:

1. Not use pipe and couplings that have been stored in direct sunlight. Pipe must be stored in such a manner so as to prevent sagging or bending.
2. Inspect pipe and couplings carefully for cuts, gouges, deep scratches, damaged ends and other major imperfections and shall not use any plastic pipe or coupling which has such defects or imperfections.
3. Use solvent cement meeting the requirements of the specifications for the particular plastic used. The cement used shall provide sufficient open time for making good joints but the installer shall complete joints immediately upon applying the solvent cement.
4. Use only pipe and coupling combinations that give close and satisfactory interference fits which will readily mate when the solvent cement is applied and the pieces are joined. The pipe shall enter the socket to between 1/2 or 2/3 of the socket depth when inserted and turned.
5. An installer may use plastic pipe couplings with molded or formed threads but he must use only the thread lubricant which is suitable for the particular type of plastic being used.
6. When the installer connects plastic pipe to a non-plastic well screen, he shall use a coupling appropriate for the specific transition intended.

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E. Technique for joining plastic well casing.

1. Cutting. The installer shall use fine tooth blades with little or no set for cutting the pipe. Pipe ends shall be cut square using a miter box. A plastic pipe cutter equipped with extra-wide rollers and thin cutting wheels may be used. Standard steel pipe or tubing cutters shall not be used for cutting plastic pipe.

2. Cleaning. The installer shall clean all dirt, dust, moisture and burrs from pipe ends and couplings. The installer may use only chemical or mechanical cleaners which are suitable for the particular plastic material being used. All burrs shall be removed.

3. Primer. The installer shall use a primer:

a. when, because of the type of plastic material being used, the pipe and coupling surfaces must be softened and dissolved in order to form a continuous bond between the mating surfaces, and/or

b. when the particular type of solvent cement being used requires one.

4. Cement application. The installer shall apply a moderate and even coat of cement² to the inside of the coupling to cover the distance of the joining surface only. The installer shall then quickly apply an even coat of cement to the outside of the pipe being joined to a distance which is equal to the depth of the pipe coupling socket.

5. Assembly. The installer shall:

a. make the joint as quickly as possible after application of the cement, and before it dries;

b. reapply cement before assembling if the cement dries partially;

c. insert the pipe into the coupling socket, turning the pipe to insure even distribution of cement.

d. make sure that the pipe is inserted to the full depth of the coupling socket, and assemble pipe by using pipe joiners;

e. remove excess solvent cement from the exterior of the joint with a clean, dry cloth;

² Caution should be used when handling solvent cement to avoid skin contact or inhalation of vapors.

f. tighten a threaded joint by no more than one full turn using a strap wrench;

g. not disturb the coupling joint until after the cement has set, in order to avoid damage to the joint and loss of fit;

h. allow sufficient time for the joint to develop good handling strength based on the setting times given in Table 2.

Table 2. Initial Set Time

Temperature Range During Initial Set Time °C (°F)	Set Time for Pipe Sizes 2 to 3 in.	Set Time for Pipe Sizes 3½ to 12 in.
15 to 40 (60 to 100)	30 min.	1 hrs.
5 to 15 (40 to 60)	2 hrs.	4 hrs.
-20 to +5 (0 to 40)	6 hrs.	12 hrs.

i. allow sufficient time for the joint to cure before the joined pipe can be dropped into the drilled hole. This additional cure time is specified in Table 3.

Table 3. Joint Cure Schedule

Ambient Temperature, °C	Nominal Pipe Sizes			
	2 to 3 in.		3½ to 12 in.	
	SDR 26 and above	SDR 21, 17, 13.5	SDR 26 and above	SDR 21, 17, 13.5
15 to 40	2 h*	12 h	6 h	24 h
5 to 15	4 h	24 h	12 h	48 h
-20 to +5	16 h	96 h	48 h	8 days

*When the relative humidity is above 60%, increase all of the above times by 50%.

F. Installation of plastic well casing:

1. The installer shall drill an open hole which is 4 inches larger than the nominal casing size.

2. ~~An installer may not insert the drill stem or drilling equipment inside the plastic well casing when drilling any kind of well. An installer may not drill through a plastic cased well.~~

3. Grouting.

a. The installer shall fill the annular space between the drill hole wall and the casing pipe with grout (defined in ~~MHD 210(c)(3)(7) MCAR § 1.210 C.3.~~) to assure equal load-

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ing around the casing in order to prevent collapse or deformation of the casing and to prevent any contamination from entering the well. Native sand may be used in non-artesian wells drilled in outwash material having no clay lense or lenses (a geological stratum composed of clay). The upper 30 feet in any type of well shall be grouted with neat cement grout (defined in ~~MHD 220(e)(3)~~ (7 MCAR § 1.220 C.3.)) using a tremie pipe. A tremie pipe is one which is small enough to fit in the annular space and which carries the grout to the bottom of a hole. The grout shall be fed under pressure from the bottom to the top in one continuous operation.

b. When drilling a rock well, the installer shall seal the casing pipe into the bedrock using neat cement grout (defined in ~~MHD 220(e)(3)~~ (7 MCAR § 1.220 C.3.)).

c. Because of its high heat of hydration, grout made of rapid-setting cement is not permitted for use in wells which are cased with PVC pipe.³

4. All plastic-cased wells must terminate above grade as prescribed in ~~MHD 217~~ (7 MCAR § 1.217) and ~~MHD 220(a)(11)~~ (7 MCAR § 1.220A. 11.) The installer may equip a plastic-cased well with a steel casing or steel pitless unit (adapter) which is satisfactory for use in plastic-cased wells, to a depth equal to or greater than the frost line. Where a steel casing or steel pitless unit is not used, the plastic casing shall be extended above grade to a distance prescribed in ~~MHD 217~~ (7 MCAR § 1.217) and ~~MHD 220(a)(11)~~ (7 MCAR § 1.220A. 11.), and must be protected with any one of the following:

a. an oversize steel casing which extends from the top of the plastic casing down to a depth below the frost line, or

b. at least 3 posts (schedule 40 steel pipe) of at least 4 inch diameter at equal distances from each other and which are placed 2 feet from the center of the plastic casing. Such posts shall be installed to a depth of 4 feet into solid ground, or to a depth of 2 feet if each post is surrounded with 1 foot of concrete to a depth of 2 feet, or

c. a well house which is constructed so as to provide a degree of protection which is equivalent to that provided in either a. or b. above.

5. The installer shall plug and abandon a bore hole as prescribed in ~~Minn. Rule MHD 218(e)(2)~~ (7 MCAR § 1.218 C. 2.)

³ This table shows the strength of PVC at various temperatures based on 73.4°F being 100% of its tested strength.

50°F	60°F	70°F	80°F	90°F	100°F	110°F	120°F	130°F	140°F	150°F
114%	107%	101%	95%	88%	83%	77%	72%	65%	40%	10%

a. whenever the plastic casing cannot be installed without exerting pressure, or

b. whenever a screen or pump cannot be installed without force, or

c. whenever the casing fails during the construction or pumping stages.

Water and Wastewater Operator Council of Certification

Rules as Proposed

~~WWOB 1:~~ The following rules, procedures, and fee schedule are hereby adopted and established for the classification of water supply and wastewater treatment facilities, issuance of operator certificates and payment of fees.

(a) ~~PURPOSE:~~ This regulation is intended to: (1) serve as a vehicle by which persons desiring to demonstrate their competency in the operation and maintenance of water supply systems or wastewater treatment facilities may demonstrate such competency; (2) implement the requirements of Laws of 1971, Chapter 828 (codified as Minnesota Statutes, Section 115.71 et seq.); that persons in direct responsible charge of a water supply system or wastewater treatment facility must obtain a certificate of competency from the Board in a class equal to or higher than the class of his system or facility; and (3) promote the employment of trained, experienced, reliable and efficient personnel in positions relating to the operation and maintenance of such systems and facilities, whether or not such personnel are required by these regulations to obtain proper certification. Such personnel will not only be urged to qualify for certificates for the positions they hold, but also for higher grades. Persons, firms, and corporations, either municipal or private, will be urged to employ certified operators.

(b) ~~DEFINITIONS:~~ Terms and abbreviations used in this regulation shall have the meanings specified in this section. Terms and abbreviations used herein which are not specifically defined shall be construed in conformance with Minnesota Statutes 1971, Chapters 115 and 116, the context, and professional usage.

(1) ~~Agency~~ means the Minnesota Pollution Control Agency.

(2) ~~Board~~ means the board of certification established by Minnesota Statutes 1971, Section 115.74.

(3) ~~Department~~ means the Minnesota Department of Health.

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(4) Direct responsibility or direct responsible charge means complete supervision of the day to day operation of a water supply system or wastewater treatment facility. A city manager, superintendent of public works or other administrative officials shall not be deemed to have direct responsible charge of a system or facility unless their duties include the day to day operation of the system or facility.

(5) Director means the director of the Minnesota Pollution Control Agency.

(6) Population equivalent is a means of expressing the strength of pollutional material in wastewater. For the purpose of this regulation the population equivalent shall be determined by dividing a daily pound load of 5 day, 20 degree centigrade Biochemical Oxygen Demand (BOD) of the raw waste by 0.17.

(7) Secretary means the secretary and executive officer of the State Board of Health.

(8) Wastewater certificate means a certificate of competency issued by the director stating that the wastewater treatment facility operator has met the requirements for the specified operator classification of the certification program.

(9) Wastewater treatment facility means any plant, disposal field, lagoon, or other works not specifically mentioned herein, installed for the purpose of collecting, pumping, treating, stabilizing or disposing of sewage, as defined in Minnesota Statutes, Section 115.01, Subdivision 2, which is actually used or intended for use by the public or by any considerable number of persons.

(10) Wastewater treatment facility operator means a person who has direct responsibility for the operation of a wastewater treatment facility.

(11) Water certificate means a certificate of competency issued by the secretary stating that the water supply system operator has met the requirements for the specified operator classification of the certification program.

(12) Water supply system means the facilities, including the source, for the collection, conditioning, purification and distribution of water for use by the public or for the use of any considerable number of persons.

(13) Water supply system operator means a person who has direct responsibility for the operation of a water

supply system or such parts of the system as would affect the quality and safety of the water.

(14) Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(e) SEVERABILITY: If any provision of this regulation or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of the regulation or application of any other part of this regulation which can be given effect without application of the invalid provision. To this end the provisions of all sections, subsections or subdivisions herein and the various applications thereof are declared to be severable.

(d) CLASSIFICATION OF WATER SUPPLY SYSTEMS: In accordance with Minnesota Statutes 1971, Section 115.72, Subdivision 1, the secretary hereby establishes the basis for classification of all water supply systems actually used or intended for use by the public or by any considerable number of persons based on the degree of hazard to the public health, together with the type and loading of plant and the population affected as follows:

(1) Water supply system classification shall be based on the following accumulative rating values:

(aa) Water Supply Source	Rating Value
(aa-1) Ground Water	3
(aa-2) Surface Water	15
(bb) Quality of Water Supply	
(bb-1) Less than 1.0 Coliform per 100 ml (milliliters)	2
(bb-2) 1.0 to 100 Coliform per 100 ml	4
(bb-3) 100 to 1,000 Coliform per 100 ml	6
(bb-4) 1,000 to 5,000 Coliform per 100 ml	8
(bb-5) 5,000 to 20,000 Coliform per 100 ml	10
(bb-6) More than 20,000 Coliform per 100 ml	12
(cc) Unit Treatment Processes	
(cc-1) Aeration	2
(cc-2) Coagulation (Surface Water Only)	10

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(ee-3) Sedimentation	5
(ee-4) Filtration	10
(ee-5) Disinfection	5
(ee-6) Ion Exchange	5
(ee-7) Chemical Oxidation	2
(ee-8) Chemical Precipitation (Softening)	6
(ee-9) Stabilization	2
(ee-10) Fluoridation	5
(ee-11) Ammoniation	5
(ee-12) Taste and Odor Control	2
(dd) Distribution Storage Capacity	
(dd-1) 0 to 5,000 gallons	1
(dd-2) 5,001 to 50,000 gallons	2
(dd-3) 50,001 to 500,000 gallons	3
(dd-4) 500,001 to 5 MG (million gallons)	4
(dd-5) Over 5 MG	5
(ee) Number of wells	
(ee-1) 1 to 3	2
(ee-2) 4 to 7	4
(ee-3) 8 to 15	6
(ee-4) Over 15	8
(ff) Population Affected	
(ff-1) 0 to 1,000 persons	2
(ff-2) 1,001 to 5,000 persons	5
(ff-3) 5,001 to 10,000 persons	11
(ff-4) 10,001 to 20,000 persons	20
(ff-5) 20,001 to 50,000 persons	32
(ff-6) 50,001 to 100,000 persons	47
(ff-7) 100,001 persons and over	70

(2) Class of Water Supply System	Accumulated Rating Value
(aa) Class A	76 or more
(bb) Class B	51-75
(cc) Class C	26-50
(dd) Class D	1-25

(3) Where unusual factors may affect the degree of hazard to public health or type and loading of plant or the population affected, or where the accumulated rating value necessitates a change in the class of a water supply system, the secretary may modify the classification of a water supply system.

(c) CLASSIFICATION OF WASTEWATER TREATMENT FACILITIES: In accordance with Minnesota Statutes 1971, Section 115.72, Subdivision 2, the director hereby establishes the basis for classification of all wastewater treatment facilities actually used or intended for use by the public or by any considerable number of persons based on the degree of hazard to public health, together with the type and loading of the facilities and the population served or the average population equivalent of the sewage handled, as follows:

(1) CLASS A TREATMENT FACILITIES shall mean treatment facilities:

(aa) Designed to serve more than 50,000 population equivalent and located upstream of an intake for a water supply system, and which may affect such system; or

(bb) Designed to serve 15,000 to 50,000 or greater population equivalent employing primary and secondary treatment and disinfection, or their equivalent, with separate sludge disposal, including, but not limited to, digestion, incineration or land disposal. Facilities otherwise complying with this section shall qualify whether or not treatment beyond secondary treatment for removal of additional BOD, suspended solids, phosphorus or any other specific elements or materials is provided.

(2) CLASS B TREATMENT FACILITIES shall mean treatment facilities:

(aa) Designed to serve greater than 15,000 population equivalent employing primary treatment with disinfection but not designated as Class A treatment facilities; or

(bb) Designed to serve 5,000 to 15,000 population equivalent and located upstream from and with a direct continuous effluent discharge to a lake or continuous flowing stream classified for contact recreation; or

(cc) Designed to serve 5,000 to 15,000 population equivalent, employing primary and secondary treatment and disinfection, or their equivalent, with separate sludge disposal, including, but not limited to, digestion, incineration or land disposal. Facilities otherwise complying with this section shall qualify whether or not treatment beyond secondary treatment for removal of additional BOD, suspended solids, phosphorus, or any other specific elements or materials is provided.

(3) CLASS C TREATMENT FACILITIES shall mean treatment facilities:

(aa) Designed to serve 5,000 to 15,000 population equivalent but not designated as Class B treatment facilities; or

(bb) Designed to serve less than 5,000 population equivalent, employing secondary treatment and disinfection, or the equivalent, except non-aerated stabilization ponds, with or without treatment beyond secondary treatment for removal of additional BOD, suspended solids, phosphorus or other specific elements or materials; or

(cc) Designed to serve less than 5,000 population equivalent and employing secondary treatment with disinfection and on-land disposal of the treated effluent.

(4) CLASS D TREATMENT FACILITIES shall mean treatment facilities which are not designated as Class A, B, C, or S treatment facilities:

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(5) CLASS S TREATMENT FACILITIES shall mean a system of collection, pumping and conveyance facilities which are distinctly separate in operation or maintenance from the wastewater treatment facilities which treat, stabilize or dispose of the sewage collected, pumped or conveyed therein. Where such conveyance facilities are not so distinctly separate they are considered to be part of the treatment facilities for which the designated operator is responsible. Class S treatment facilities shall be subclassified as follows:

(aa) Class S-A: Serving a population equivalent of 50,000 or more.

(bb) Class S-B: Serving a population equivalent of 15,000 or more but less than 50,000.

(cc) Class S-C: Serving a population equivalent of less than 15,000 with pumping facilities.

(dd) Class S-D: Serving a population equivalent of less than 15,000 without pumping facilities.

(6) Where unusual factors may affect the degree of hazard to public health, type and loading of the treatment facility, the population served or the average population equivalent of the sewage handled, the director may modify the classification of a wastewater treatment facility.

(F) WATER SUPPLY SYSTEM AND WASTEWATER TREATMENT FACILITIES OPERATOR QUALIFICATIONS:

(1) In addition to the requirements listed in this section for specific classes, every operator shall pass an examination pursuant to Section (g) and shall be in satisfactory health and physically capable of performing the work required. The certification of an operator is based on the skill, knowledge, experience, education and character that a person must have to operate a specified class of system or facility successfully, to maintain it economically, to safeguard the public health and protect the waters of the state.

(2) CLASS A OPERATOR

(aa) Each applicant shall:

(aa-1) Possess a bachelor's degree in chemical, civil, mechanical or other appropriate branch of engineering, or possess a bachelor's degree with a major in chemistry or the physical or biological sciences, and submit satisfactory evidence of at least three years of responsible

experience in the operation and management of a Class A or a Class B water supply system, wastewater treatment facility or a similar industrial facility; or

(aa-2) Be a high school graduate with a minimum of seven years responsible experience in the operation and management of a Class A or B water supply system, wastewater treatment facility, or a similar industrial facility, and have completed special courses of training acceptable to the Board; or

(aa-3) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(3) CLASS B OPERATOR:

(aa) Each applicant shall:

(aa-1) Possess a bachelor's degree in chemical, civil, mechanical or other appropriate branch of engineering or possess a bachelor's degree with a major in chemistry or the physical or biological sciences, and submit satisfactory evidence of at least two years responsible experience in the operation and management of a Class A, B, or C water supply system, wastewater treatment facility, or a similar industrial facility; or

(aa-2) Be a high school graduate with a minimum of five years responsible experience in the operation and management of a Class A, B, or C water supply system, wastewater treatment facility, and have completed special courses of training acceptable to the Board; or

(aa-3) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(4) CLASS C OPERATOR:

(aa) Each applicant shall:

(aa-1) Be a high school graduate with a minimum of three years responsible experience in the operation and management of a Class A, B, C, or D water supply system, wastewater treatment facility, or similar industrial facility, and have completed special courses of training acceptable to the Board; or

(aa-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

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(5) CLASS D OPERATOR-

(aa) Each applicant shall:

(aa-1) Be an elementary school graduate possessing not less than one year of acceptable experience for the work required; or

(aa-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(6) CLASS S OPERATOR-

(aa) Sub-Class S-A Operator. Each applicant shall:

(aa-1) Be a high school graduate with a minimum of five years responsible experience in the operation and management of a Class A, B, S-A or S-B treatment facility, and have completed special courses of training acceptable to the Board; or

(aa-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(bb) Sub-Class S-B Operator. Each applicant shall:

(bb-1) Be a high school graduate with a minimum of three years responsible experience in the operation and management of a Class A, B, C, S-A, S-B or S-C treatment facility, and have completed special courses of training acceptable to the Board; or

(bb-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(cc) Sub-Class S-C Operator. Each applicant shall:

(cc-1) Be a high school graduate with a minimum of two years responsible experience in the operation and management of a Class A, B, C, D, S-A, S-B, S-C, or S-D treatment facility, and have completed special courses of training acceptable to the Board; or

(cc-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(dd) Sub-Class S-D Operator. Each applicant shall:

(dd-1) Be an elementary school graduate

possessing not less than one year of acceptable experience for the work required; or

(dd-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(7) The experience required above to qualify as an operator may be reduced by up to six months by the Board for the successful completion of each academic year beyond high school with engineering relating to water supply systems and wastewater treatment or course work in the chemical or biological sciences, or a technical school, or for the successful completion of 50 classroom hours of courses relating to water supply systems or wastewater treatment. In no event shall such education reduce the experience requirements stated above to less than one year.

(8) One year of operating experience may be considered as equivalent to one year high school. Experience applied to education cannot also be applied to the experience requirements.

(g) APPLICATIONS, EXAMINATIONS AND ISSUANCE OF CERTIFICATES:

(1) Application for Examination

(aa) Application shall be made in writing to the secretary or director at least 30 days prior to the date on which the examination will be given, on a form prescribed and furnished by the secretary or director or others designated by the secretary or director. Applicants found to have submitted incorrect information may be rejected for certification at the discretion of the Board.

(bb) No applicant shall be administered the examination who does not possess the qualifications required by Section (f) except under unusual circumstances, as determined by the secretary, director, or Board, or except as provided in Section (g) (1) (cc).

(cc) In unusual circumstances the Board may permit an applicant upon adequate justification to take an examination as a water supply system or wastewater treatment facility operator where the applicant does not comply with the education or experience qualifications for a particular class as set forth in Section (f) for the purpose of becoming certified as an operator in training.

(dd) The secretary and director or others designated by the secretary or director shall assemble and review all information and documents needed to determine the eligibility of the applicant for examination, and notify him of his status.

(ee) All necessary fees as set forth in Section (i) shall accompany the completed application form.

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(ff) A copy of the school or college diploma, equivalency certificate, or other proof of school or college attendance and/or graduation may be required to be submitted by the applicant.

(2) EXAMINATIONS:

(aa) The Board shall prepare written examinations to be used in determining the knowledge, ability, and judgment of operators.

(bb) Separate examinations will be prepared for each designated water supply system and wastewater treatment facility class to cover basic differences in the duties and responsibilities of operators, types of water and wastewater treatment, variations in water and wastewater characteristics, water distribution systems, and wastewater collection systems.

(cc) The Board shall cause at least one examination to be held each year according to procedures prescribed by the Board for the purpose of examining candidates for certification at a time and place designated by the Board.

(dd) Applicants who fail to receive a passing grade may not repeat that examination for a period of six months.

(ee) A written examination grade of 70 percent shall be considered passing, except in the case of Class A certificates, for which an oral interview also may be required.

(ff) Unless otherwise determined by the Board, all examinations shall be written. All examinations will be graded by the secretary and director, or by others designated by the secretary and director, and the applicant notified directly of the results. Papers will not be returned to the applicant, but upon request within 60 days of notification of the result, the applicant may be allowed to review the examination and grading.

(3) ISSUANCE OF WATER AND WASTEWATER CERTIFICATES.

(aa) Upon satisfactory fulfillment of the requirements provided herein and recommendation of the Board, the secretary or director shall issue a suitable certificate designating the applicant's competency. This certificate will indicate the class of system and/or facility which the applicant is qualified to operate.

(bb) Certificates in appropriate classifications shall be issued to operators who, on the effective date of these regulations, hold certificates of competency attained by examination under the voluntary certification program previously administered by the Department and the Agency.

(cc) An applicant under Section (g) (1) (cc) may be issued a certificate of operator-in-training by the secretary or director based upon the successful passing of an examination and the recommendations of the Board. Such a certificate shall apply only to the class of system and/or facility which the applicant is operating as an operator-in-training at the time of application.

(dd) Certificates of proper classification may be issued upon application and without examination to the person or persons certified by the governing body or owner to have been in direct responsible charge of the water supply system or wastewater treatment facility on July 1, 1972. A certificate so issued shall be valid only for that particular water supply system or wastewater treatment facility and subject to the requirements of Section (h) (1).

(ee) Certificates of operators who terminate their employment at a water supply system or wastewater treatment facility shall remain valid for the unexpired term of the certificate. Operators whose certificates expire under this Section (g) (3) (ee) may upon application to the secretary or director, be issued new certificates of a like classification provided appropriate proof of competency is presented to the Board. Successful completion of an examination may be required at the discretion of the Board.

(ff) Certificates shall be prominently displayed in the office of the operator or other appropriate place on the premises of the water supply system or wastewater treatment facility.

(h) RENEWAL, RECIPROCITY, AND REVOCATION OF OPERATOR CERTIFICATES:

(1) All certificates shall be renewed after a period of three years upon application to the secretary or director, if the applicant has been in attendance at acceptable water and wastewater training schools or other educational activities during the three-year period for at least the number of hours specified in the following schedule: Class A - 32 hours; Class B - 24 hours; Class C - 16 hours; Class D - 8 hours; Class S-A - 16 hours; Class S-B - 16 hours; Class S-C - 8 hours; Class S-D - 8 hours.

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(2) The Board shall annually prepare and make available to the public and certified operators a list of training schools and educational activities acceptable to the Board for the purposes of Section (h) (1).

(3) The secretary or director, upon application therefor, and upon recommendation of the Board, may issue a certificate of an equal or lower class without examination to a person who holds a certificate in any state, territory, or possession of the United States of America, or any other country, provided the requirements for certification of operators under which the performance certificate was issued do not conflict with provisions of these regulations; that reciprocal privileges are granted to Minnesota operators and that the applicant lives in Minnesota or has a need for certification for employment in Minnesota.

(4) The secretary and the director may revoke the certificate of any operator under their respective jurisdictions following a hearing before the secretary or director or his designated representative, when it is found: that the operator has practiced fraud or deception; that the operator was guilty of gross negligence or misconduct in the performance of his duties; or that the operator is incompetent or unable to properly perform his duties. No revocation shall be effective until it has received the concurrence of the Board.

(5) Where the secretary or director reclassifies a water supply system or wastewater treatment facility to a class higher than its previous classification, the governing body or owner and operator of said system or facility shall be notified of such reclassification by the secretary or director, as the case may be. The operator may, prior to a date twelve months after such notification, apply for reclassification to an operator classification equivalent to the system or facility as reclassified. The governing body or owner of the water supply system or wastewater treatment facility operated by said operator shall obtain an operator of the proper classification prior to the expiration of said twelve-month period, unless the previous operator has obtained a water supply system or wastewater treatment facility operator's certificate of the appropriate classification.

(i) SCHEDULE OF FEES:

(1) Fees for certification shall be as follows:

Application for examination	\$15.00
Issuance of certificate	\$15.00
Re-examination resulting from failure to pass an examination	\$15.00
Renewal of certificate	\$15.00
Replacement certificate	\$ 5.00
Reinstatement or reciprocity certificate	\$20.00

(2) Fees from applicants who are rejected for examination will be returned to them.

Fees from those failing to pass an examination will not be returned.

(3) Where fees are paid by check or money order they shall be made payable to the State Treasurer, State of Minnesota, and submitted to the Department in the case of the water supply system operators or the Agency in the case of wastewater treatment facility operators.

(j) TERMINATION OF VOLUNTARY CERTIFICATION PROGRAM:

(1) The voluntary certification program previously administered by the Department and the Agency shall be automatically terminated upon filing of these rules and regulations with the Secretary of State and Commissioner of Administration.

(k) VIOLATIONS. The following acts shall be subject to the remedies provided by law:

(1) Failure to comply with these regulations.

(2) Having direct responsible charge of a water supply system or wastewater treatment facility without an operator's certificate.

(3) Having direct responsible charge of a water supply system or wastewater treatment facility of a class higher than is permitted by the terms of an otherwise lawful operator certificate.

(4) Failure to provide an operator in direct responsible charge of a water supply system or wastewater treatment facility who is a holder of a valid operator certificate of the proper classification which has been issued by the Board.

(l) APPEALS:

(1) Persons aggrieved by actions of the secretary or director pursuant to this regulation may appeal such action to the Board within thirty days of written notice of such action.

(2) Persons aggrieved by actions of the Board pursuant to this regulation may appeal such action to the district court within thirty days of written notice of such action.

6 MCAR § 5.001 This rule states the purpose for and the definitions which are to apply in the interpretation of 6 MCAR §§ 5.001, .002, and .003.

A. These rules are intended to:

1. serve as a vehicle by which persons desiring to

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demonstrate their competency in the operation and maintenance of water supply systems or wastewater treatment facilities may demonstrate such competency;

2. implement the requirements of Laws of 1971, ch. 828, as amended, (Minn. Stat. §§ 115.71 *et seq.*), that persons in direct responsible charge of a water supply system or wastewater treatment facility must obtain a certificate of competency from the Council in a class equal to or higher than the class of his or her system or facility; and

3. promote the employment of trained, experienced, reliable and efficient personnel in positions relating to the operation and maintenance of such systems and facilities, whether or not such personnel are required by these regulations to obtain proper certification.

B. DEFINITIONS: Terms and abbreviations used in these rules shall have the meanings specified in this section. Terms and abbreviations used herein which are not specifically defined shall be construed in conformance with Minn. Stat. ch. 115 and 116 (1976), the context, and professional usage.

1. "Agency" means the Minnesota Pollution Control Agency;

2. "Department" means the Minnesota Department of Health;

3. "Facility" means wastewater treatment facility as defined in Minn. Stat. § 115.71 (1976);

4. "Population equivalent" is a means of expressing the strength of polluttional material in wastewater. For the purpose of these rules the population equivalent shall be determined by dividing a daily pound load of 5 day, 20 degree centigrade biochemical oxygen demand (BOD) of the raw waste by 0.17;

5. "Responsible experience" means

a. where shift operation is not required, permanent accountability for and performance of active daily on-site operation;

b. where shift operation is required,

(1) permanent accountability for active daily on-site technical and administrative supervision, and

(2) permanent, active, daily, on-site charge of an operating shift, or a major segment of a system or facility.

A city manager, superintendent of public works, or other administrative officials shall not be deemed to have direct responsibility of a system or facility unless their duties include the day-to-day operation of the system or facility;

6. "System" means water supply system as defined in Minn. Stat. § 115.71 (1976).

6 MCAR § 5.002 Classification of systems and facilities.

A. Classification of water supply systems. The commissioner hereby establishes the basis for classification of all public water supply systems based on the degree of hazard to the public health, together with the type and loading of plant and the population affected.

1. Water supply system classification shall be based on the following rating values:

<u>Item</u>	<u>Points</u>
<u>a. Water Supply Source</u>	
(1) Ground Water	3
(2) Surface Water	15
<u>b. Quality of Water Supply</u>	
(1) Less than 1.0 Coliform per 100 ml (milliliters);	2
(2) 1.0 to 100 Coliform per 100 ml	4
(3) 100 to 1,000 Coliform per 100 ml	6
(4) 1,000 to 5,000 Coliform per 100 ml	8
(5) 5,000 to 20,000 Coliform per 100 ml	10
(6) More than 20,000 Coliform per 100 ml	12
<u>c. Unit Treatment Process</u>	
<u>(1) Ground Water Source</u>	
(a) Aeration	2
(b) Chemical Precipitation (Softening)	16
(c) Filtration other than after softening process	10

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<u>(d) Ion Exchange</u>	<u>5</u>
<u>(e) Disinfection</u>	<u>5</u>
<u>(f) Chemical Oxidation</u>	<u>2</u>
<u>(g) Stabilization</u>	<u>2</u>
<u>(h) Fluoridation</u>	<u>5</u>
<u>(i) Ammoniation</u>	<u>5</u>
<u>(j) Taste and Odor Control</u>	<u>2</u>

(2) Surface Water Source

<u>(a) Aeration</u>	<u>2</u>
<u>(b) Coagulation</u>	<u>10</u>
<u>(c) Sedimentation</u>	<u>5</u>
<u>Filtration</u>	<u>10</u>
<u>(e) Disinfection</u>	<u>3</u>
<u>(f) Ion Exchange</u>	<u>5</u>
<u>(g) Chemical Oxidation</u>	<u>2</u>
<u>(h) Stabilization</u>	<u>2</u>
<u>(i) Fluoridation</u>	<u>5</u>
<u>(j) Ammoniation</u>	<u>5</u>
<u>(k) Taste and Odor Control</u>	<u>2</u>

d. Distribution Storage Capacity

<u>(1) 0 to 5,000 gallons</u>	<u>1</u>
<u>(2) 5,001 to 50,000 gallons</u>	<u>2</u>
<u>(3) 50,001 to 500,000 gallons</u>	<u>3</u>
<u>(4) 500,001 to 5 MG (million gallons)</u>	<u>4</u>
<u>(5) Over 5 MG</u>	<u>5</u>

e. Number of Wells

<u>(1) 1 to 3</u>	<u>2</u>
<u>(2) 4 to 7</u>	<u>4</u>
<u>(3) 8 to 15</u>	<u>6</u>
<u>(4) Over 15</u>	<u>8</u>

f. Population Affected

<u>(1) 0 to 1,000 persons</u>	<u>2</u>
<u>(2) 1,001 to 5,000 persons</u>	<u>5</u>
<u>(3) 5,001 to 10,000 persons</u>	<u>11</u>
<u>(4) 10,001 to 20,000 persons</u>	<u>20</u>
<u>(5) 20,001 to 50,000 persons</u>	<u>32</u>
<u>(6) 50,001 to 100,000 persons</u>	<u>47</u>
<u>(7) 100,001 persons and over</u>	<u>70</u>

<u>2. Class of Water Supply System</u>	<u>Accumulated Point Value</u>
<u>a. Class A</u>	<u>76 or more</u>
<u>b. Class B</u>	<u>56 to 75</u>
<u>c. Class C</u>	<u>31 to 55</u>
<u>d. Class D</u>	<u>30 or less</u>

B. Classification of wastewater treatment facilities. The director hereby establishes the basis for classification of all wastewater treatment facilities actually used or intended for use by the public or by any considerable number of persons based on the degree of hazard to the public health, together with the type and loading of the facilities and the population served or the average population equivalent of the sewage handled.

1. Wastewater treatment facility classification shall be based on the following rating values:

<u>ITEM</u>	<u>POINTS</u>
<u>a. Size</u>	
<u>(1) Maximum population equivalent (P.E.) served</u>	<u>1 per 10,000 P.E. or part thereof</u>
<u>(2) Design flow average day or peak months' flow</u>	<u>1 per million gallons daily or part thereof</u>

b. Effluent Discharge:

(1) Receiving stream sensitivity based on general standards applicable to all intra- and interstate waters, as prescribed in WPC 14(d)* and WPC 15(d)*

<u>(a) Domestic consumption</u>	
<u>(i) Class B</u>	<u>6</u>
<u>(ii) Class C</u>	<u>5</u>
<u>(iii) Class D</u>	<u>4</u>

<u>(b) Fisheries and recreation</u>	
<u>(i) Class A</u>	<u>5</u>
<u>(ii) Class B</u>	<u>3</u>
<u>(iii) Class C</u>	<u>2</u>

<u>(2) Dechlorination</u>	<u>5</u>
<u>(3) Land disposal — evaporation</u>	<u>2</u>
<u>(4) Subsurface disposal</u>	<u>4</u>

c. Variation in Raw Wastes

<u>(1) 1-5% industrial flow contributed to facility</u>	<u>1</u>
<u>(2) 6-10% industrial flow contributed to facility</u>	<u>2</u>
<u>(3) 11-25% industrial flow contributed to facility</u>	<u>3</u>
<u>(4) 26-50% industrial flow contributed to facility</u>	<u>4</u>

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<u>(5) 51% or more industrial flow contributed to facility</u>	<u>5</u>	<u>(2) Anaerobic digestion</u>	<u>10</u>
<u>(6) For special treatment of industrial wastes at the wastewater treatment facility</u>	<u>1</u>	<u>(3) Aerobic digestion</u>	<u>6</u>
		<u>(4) Evaporative sludge drying</u>	<u>2</u>
		<u>(5) Mechanical dewatering</u>	<u>8</u>
		<u>(6) Solids reduction, such as incineration, wet oxidation</u>	<u>12</u>
<u>d. Pretreatment</u>		<u>(7) On-land disposal</u>	<u>5</u>
<u>(1) Screening, comminution</u>	<u>3</u>		
<u>(2) Grit removal</u>	<u>3</u>	<u>i. Disinfection</u>	
<u>(3) Plant pumping of main flow</u>	<u>3</u>	<u>(1) Chlorination or comparable</u>	<u>5</u>
<u>(4) Preaeration with less than 2 hours' detention time</u>	<u>3</u>	<u>(2) On-site generation of disinfectant</u>	<u>5</u>
<u>(5) Hydro sieve</u>	<u>4</u>		
		<u>j. Laboratory Monitoring</u>	
<u>e. Primary Treatment</u>		<u>(1) Minimum required tests (pH, Cl₂, residual D.O., settleable solids, B.O.D. and T.S.S.)</u>	<u>2</u>
<u>(1) Primary clarifiers</u>	<u>5</u>	<u>(2) Bacteriology (fecal coliform, total coliform, fecal streptococcal, etc.)</u>	<u>3</u>
<u>(2) Combined sedimentation and digestion</u>	<u>5</u>	<u>(3) Activated sludge process control</u>	<u>3</u>
<u>(3) Chemical addition, except chlorine and enzymes</u>	<u>4</u>	<u>(4) Nutrients</u>	<u>1</u>
		<u>(5) Ground water monitoring</u>	<u>1</u>
<u>*adopted in 1973</u>			
<u>f. Secondary Treatment</u>		<u>2. Class of wastewater treatment facility.</u>	<u>Accumulated Point Value</u>
<u>(1) Trickling filter</u>	<u>5</u>	<u>a. Class A</u>	<u>76 or more points</u>
<u>(2) Activated sludge including pure oxygen activated sludge</u>	<u>10</u>	<u>b. Class B</u>	<u>56-75 points</u>
<u>(3) Stabilization ponds, designed for more than 180 days' detention time</u>	<u>5</u>	<u>c. Class C</u>	<u>31-55 points</u>
<u>(4) Aerated ponds designed for more than 2 hours' detention time</u>	<u>8</u>	<u>d. Class D</u>	<u>30 and less</u>
<u>(5) Rotating biological surface</u>	<u>5</u>		
<u>(6) any number of secondary clarifiers</u>	<u>5</u>	<u>3. Type S Treatment Facility shall mean a system of collection, pumping and conveyance facilities which are distinctly separate in operation or maintenance from a wastewater treatment facility which treats, stabilizes or disposes of the sewage collected, pumped or conveyed therein. Where such a conveyance facility is not so distinctly separate, it is considered to be part of the treatment facility for which the designated operator is responsible. A type S treatment facility shall be subclassified as follows:</u>	
<u>(7) On-site generation of oxygen</u>	<u>5</u>	<u>a. Class S-A. Serving a population of 50,000 or more;</u>	
<u>g. Advanced Waste Treatment</u>		<u>b. Class S-B. Serving a population of 15,000 or more but less than 50,000;</u>	
<u>(1) Aerated polishing ponds designed for less than 180 days' detention time</u>	<u>5</u>	<u>c. Class S-C. Serving a population of 1500 or more but less than 15,000;</u>	
<u>(2) Polishing ponds without aeration</u>	<u>2</u>		
<u>(3) Chemical and physical</u>	<u>15</u>		
<u>(4) Biological treatment for nitrogen removal</u>	<u>8</u>		
<u>(5) Chemical addition for phosphorous and/or solids removal</u>	<u>8</u>		
<u>(6) Multi-media filters and/or activated carbon beds</u>	<u>8</u>		
<u>(7) Ion exchange</u>	<u>10</u>		
<u>(8) Reverse osmosis, electro dialysis</u>	<u>15</u>		
<u>(9) Chemical recovery, carbon regeneration</u>	<u>4</u>		
<u>(10) Micro-strainers</u>	<u>4</u>		
<u>h. Solids Handling</u>			
<u>(1) Thickening including chemical treatment</u>	<u>5</u>		

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d. Class S-D. Serving a population of less than 1500.

C. Reclassification. When the accumulated point value necessitates a change in the classification of a system or facility, or when unusual factors may affect the degree of hazard to the public health, the type and loading of the system or facility, or the average population served or population equivalent of the sewage handled, the commissioner or director may modify the classification of a system or facility.

6 MCAR § 5.003 Certification.

A. Qualifications for certification of water supply system and wastewater treatment facility operators.

1. General. In order to be certified, an applicant must

a. demonstrate that he or she possesses the skill, knowledge, experience and education that a person must have to operate a specified class of system or facility successfully, to maintain it economically, to safeguard the public health and protect the waters of the state, and

b. have passed a written examination taken pursuant to this rule.

2. In addition, before applying to take an examination, a person who seeks certification in a particular class must meet the qualifications for that class as specified below:

a. Class A Certificate: An applicant shall

(1) have been certified as a Class B operator for two years, and

(2) have a

(a) bachelor's degree in an appropriate branch of engineering or in a physical or biological science, and submit satisfactory evidence of at least four years of responsible experience in the operation and management of a Class A or B system or facility or a similar industrial facility, or

(b) high school diploma and at least eight years of responsible experience in the operation and management of a Class A or B system or facility, or a similar industrial facility, and

(3) take and pass an oral examination;

b. Class B Certificate: An applicant shall

(1) possess a bachelor's degree in an appropriate branch of engineering or in a physical or biological science, and submit satisfactory evidence of at least two years of experience in the operation of a Class A, B, or C system or facility, or similar industrial facility, or

(2) be a high school graduate with at least six years of experience in the operation of a Class A, B, or C system or facility, or a similar industrial facility;

c. Class C Certificate: An applicant shall be a high school graduate with a minimum of three years of experience in the operation of a water supply system, wastewater treatment facility, or similar industrial facility;

d. Class D Certificate: An applicant shall be a high school graduate

(1) who has a minimum of one year of experience in a water supply system, wastewater treatment facility or in a related field, or

(2) who has satisfactorily completed an approved, post-secondary program of courses in water and wastewater technology at an accredited institution.

e. An applicant for a type S wastewater treatment certificate shall possess the same educational and experiential qualifications as are required of one who applies for a regular wastewater certificate in the same class, with the following exceptions:

(1) experience shall have been gained in a regular wastewater or type S facility, and

(2) when one applies for an S-A or S-B type certificate, he or she shall already possess the appropriate class of type S certificate.

3. Substitutions:

A. When a person applies for certification to operate a (1) wastewater treatment facility, experience gained in a water supply system or a type S wastewater treatment facility may be given up to 50% credit towards meeting the experience requirement for that class of facility for which the applicant seeks the certificate.

(2) water supply system, experience gained in a wastewater treatment facility may be given up to 50% credit towards meeting the experience requirement for that class of system for which the applicant seeks the certificate. Experience gained in a type S wastewater treatment facility may not be substituted when one applies for a water supply system certificate.

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b. Persons who apply for a Class A, S-A, B, S-B, C or S-C certificate may substitute education for experience according to the following formulae:

(1) Except as noted below, the Council may reduce the experience required in subsection A.2 above by up to six months for the successful completion of:

(a) each academic year beyond high school in which the applicant took courses relating to water supply and wastewater treatment, or in an appropriate branch of engineering, or in the chemical or biological sciences, or

(b) one hundred contact hours of courses relating to water supply or wastewater treatment.

(2) In no event shall such education be substituted for experience so as to reduce the experience requirement to less than one year.

(3) An applicant may be given credit for taking the same course more than once only upon approval of the Council.

c. One year of experience in the operation of a water supply system or wastewater treatment facility may be considered as equivalent to one year of high school. Experience which is substituted for education cannot also be used to satisfy the experience requirements.

B. Examination procedure.

1. Application for examination.

a. Application for examination shall be made in writing to the commissioner or director on a prescribed form, and should be submitted at least 15 days prior to the date on which the examination will be given.

b. The examination fee shall accompany the application.

c. The appropriate reviewing authority shall review all information and documents needed to determine the eligibility for examination and notify the applicant of his or her status.

d. The applicant may be required to submit a copy of the school or college diploma, equivalency certificate or

other proof of school or college attendance and/or graduation.

2. Examinations:

a. The council shall authorize the preparation of written and oral examinations to be used in determining the knowledge, ability and judgment of operators.

b. Separate written examinations shall be prepared for each designated water supply system and wastewater treatment facility class to cover basic differences in the duties and responsibilities of operators, types of water and wastewater treatment, variations in water and wastewater characteristics, water distribution systems, and wastewater collection systems. The written examination shall test the applicant's knowledge in any one or more of the following areas, as they relate to either water or wastewater treatment: basic science, mathematics, operating procedures, treatment processes, equipment and its maintenance and applicable law and rules.

c. The oral examination for an A certificate will include questions concerning the scope of the applicant's experience, supervisory and managerial responsibilities, and operational capabilities. Such an examination may be conducted by a subcommittee of the council.

d. All examinations shall be closed-book.

e. For the written examination, a grade of 70% shall be considered a passing grade. For the oral examination, the grade shall be either PASS or FAIL.

f. The applicant shall be notified of the results. Papers shall not be returned to the applicant, but upon request within 60 days' notification of the results, the applicant may be allowed to review the written examination.

g. An applicant who fails to pass may not retake the same examination for a period of three months.

C. Restricted certificate.

1. The operator of a system or facility which is reclassified to a higher class pursuant to 6 MCAR § 5.002 C. is eligible for a restricted certificate in the higher class, except as noted in 6 MCAR § 5.003 C.2. A restricted certificate shall be issued upon receipt of the certificate fee and shall be effective for three years from the date of issue. A

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restricted certificate may be renewed in the same manner as an unrestricted certificate. A restricted certificate shall specify that the operator named therein is certified to operate only the reclassified system or facility for which the restricted certificate is issued.

2. No restricted certificate will be granted if reclassification was the result of a major alteration to the system or facility, the operation of which would require considerably more training, knowledge or experience than that possessed by the current operator.

D. Issuance of certificates. Certificates shall be issued by the commissioner or director when all the conditions prescribed in these rules have been satisfied.

E. Renewal.

1. A certificate in any given classification must be renewed within 30 days of its expiration date. Except as provided in 6 MCAR § 5.003 E.2. a renewal certificate will be issued upon receipt of the application, renewal fee and evidence of the fact that the operator has, during the preceding three years, obtained credit for attending approved water and wastewater training courses, or participated in substantially similar educational activities, for the number of hours specified in the following schedule:

Class A and S-A, 32 contact hours;

Class B and S-B, 24 contact hours;

Class C and S-C, 16 contact hours;

Class D and S-D, 8 contact hours.

2. A person who has obtained a Class D or S-D certificate pursuant to 6 MCAR § 5.003 A.2.d.(2) and who has not worked as an operator for at least one year during the time the certificate was in effect shall not be eligible to renew such a certificate.

3. The council shall annually prepare and make available to operators and the public a list of accredited training courses and approved educational activities for which credit may be obtained.

F. Reinstatement. A person whose certificate has expired may apply to the commissioner or secretary for reinstatement of the certificate in the same classification. Before a certificate will be issued, such person must submit the following:

1. the application for reinstatement,

2. the fee for a reinstatement certificate, which fee is non re-fundable, and

3. evidence of the fact that he or she had complied with the continuing education requirements imposed in 6 MCAR § 5.003 E.1. during the entire time since the expired certificate was last issued or renewed.

4. A person who is denied reinstatement will be required to follow the procedure imposed for a new applicant. In such case the reinstatement fee already paid shall be credited towards the fees for examination and a new certificate.

G. Fees.

1. Fees for certification shall be as follows:

<u>a. Application for examination</u>	<u>\$15.00</u>
<u>b. Issuance of certificate</u>	<u>\$15.00</u>
<u>c. Re-examination resulting from failure to pass an examination</u>	<u>\$15.00</u>
<u>d. Renewal of certificate</u>	<u>\$15.00</u>
<u>e. Replacement certificate</u>	<u>\$ 5.00</u>
<u>f. Reinstatement or reciprocity certificate</u>	<u>\$20.00</u>

2. Only fees from persons who are rejected for examination will be returned to them.

Livestock Sanitary Board Proposed Amendment to Rules Governing Importation of Swine, Eradication of Swine Brucellosis in Minnesota, and Control of Mycoplasma in Poultry, and Promulgation of Rule Governing Control of Pseudorabies

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held pursuant to Minn. Stat. ¼ 15.0412, subd. 4 (1976), in Conference Room at 500 Rice Street (one half block north of University Avenue) St. Paul, Minnesota, commencing at 10:00 a.m., or as soon thereafter as possible, Thursday December 7, 1978, and

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continuing until all interested or affected persons have had an opportunity to be heard.

The Livestock Sanitary Board proposes to amend:

3 MCAR § 2.005 Importation of Swine is being amended to allow breeding swine six months of age and over to be imported if negative on an official pseudorabies test of the state of origin and that swine from Qualified Pseudorabies Negative Swine Herds may be imported without a further test for pseudorabies.

3 MCAR § 2.021 Eradication of Swine Brucellosis in Minnesota is being amended to allow revalidation of swine herds by testing 25% of the breeding herd quarterly as provided in Recommended Uniform Methods and Rules for Brucellosis Eradication as published by USDA.

3 MCAR § 2.032 Control of Mycoplasma in Poultry is being amended to reduce the number of chickens required to be tested in a flock to establish a Minnesota Mycoplasma tested status.

The Livestock Sanitary Board proposes to promulgate rule:

3 MCAR § 2.024 Control of Pseudorabies is a new rule and is proposed to fill a need brought to our attention by the swine industry of Minnesota and other states. The rule will provide a means of establishing and maintaining Qualified Pseudorabies Negative Swine Herds. Swine from these herds will be able to move inter and intrastate without further testing for pseudorabies. To control the spread of the disease within Minnesota, the rule provides that swine herds and other livestock which are found to be infected will be quarantined until the disease has been controlled.

Free copies of the proposed rules are available and can be obtained from the Minnesota Livestock Sanitary Board, 555 Wabasha, St. Paul, Minnesota 55102. Additional copies will be available at the hearing.

Statutory authority to promulgate the proposed rules is vested in the Livestock Sanitary Board by Minn. Stat. § 35.03 (1976).

Relevant statements or written material may be submitted for the record at the hearing or to Harry S. Crump, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, phone (612) 296-8111 before the hearing or written material may be submitted to Harry S. Crump and recorded in the hearing record for five working days after the public hearing

ends, or for a longer period not to exceed 20 calendar days if ordered by the Hearing Examiner.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within 5 days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. "Lobbyist" does not include any: (a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity; (b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action; (c) Individual in the course of selling goods or services to be paid for by public funds; (d) News media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action; (e) Paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or (f) Stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not spend over \$250, excluding travel expenses, in any year in communicating with public officials. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone 612-296-5615.

Notice: Any person may request notification of the date on which the Hearing Examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be

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presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

November 3, 1978

J. G. Flint, D.V.M.
Secretary and Executive Officer

3 MCAR § 2.005 Importation of swine into Minnesota.

A. Swine shall not be imported into the State of Minnesota from herds or areas under quarantine for infectious diseases of swine except swine accompanied by a shipping permit sent directly to slaughtering establishments under federal inspection, or to a public stockyard for sale to a slaughtering establishment.

B. All swine imported into the State of Minnesota shall be accompanied by a health certificate issued by an accredited veterinarian, except:

1. Feeding and slaughter swine consigned to a public stockyard.

2. Feeding and slaughter swine consigned to a market operating under a permit from the Board.

3. Swine going directly to slaughter at a slaughtering establishment having federal inspection.

C. Health certificates:

1. Shall show the individual identification numbers of the swine. Acceptable individual identification shall be:

- a. Eartag;
- b. Tattoo;
- c. Registration number;
- d. Approved ear notch system.

2. Shall show the date, name of the laboratory, and results of test required in subd. D.1. and 2.

3. Shall show the validated brucellosis-free herd number or other disease-free herd status if originating from such herds.

4. One copy of the health certificate approved by the animal health department of the state of origin shall be forwarded to the Minnesota Livestock Sanitary Board.

D. Breeding swine six months of age and over shall be:

1. Negative to the Brucellosis Buffered Antigen Test conducted at a state or federal laboratory within 30 days prior to importation, or originate from a Validated Brucellosis-free Swine Herd.

2. Negative to the Serum Neutralization Test an official test for pseudorabies within 30 days prior to importation or originate from a Qualified Pseudorabies-Negative Swine Herd.

3 MCAR § 2.021 Eradication of swine brucellosis in Minnesota.

A. Definitions.

1. Board means the State Livestock Sanitary Board or its authorized agent.

2. Owner means the legal owner, his agents, and the person in possession of or caring for the swine referred to.

3. Herd means any number of swine owned by one or more persons which are maintained on one or more premises and which associate with or contact one another or are cared for by the same personnel.

4. Veterinarian means a veterinarian licensed and accredited in Minnesota or a veterinarian of the USDA.

5. Test and Testing mean and refer to the Brucella Buffered Antigen (BBA or Card) test or other tests approved by the Board conducted in a laboratory approved by the Board on serums from blood samples collected and submitted by a veterinarian.

6. Negative swine means swine showing no reaction on the test.

7. Reactor swine means swine showing a positive reaction on the test or found infected by other diagnostic procedures. Diagnosis may be deferred on card test positive swine in a herd which is otherwise serologically, bacteriologically and epidemiologically negative when held under herd quarantines until subjected to subsequent tests to determine the status of the swine.

8. Negative herd means one in which all eligible swine six months of age and over are negative.

9. Infected herd means one in which one or more reactors has been disclosed and which has not regained a negative herd status.

10. Validated Brucellosis-Free Herd means one for

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which the owner holds an unrevoked and unexpired validated herd certificate.

11. Herd selling breeding stock means a herd from which pure-bred, hybrid, or grade gilts, sows, or boars are sold as replacement breeding stock on a continuing basis as a major or primary herd management objective.

12. Exposed swine means those which are part of a brucellosis infected herd or have been in contact with a brucellosis reactor for 24 hours, or less than 24 hours if reactor has recently aborted, farrowed or has vaginal or uterine discharge.

13. Validated Brucellosis-Free Area means an area which is recognized by the Board and USDA as being free of swine brucellosis.

B. General requirements.

1. Veterinarians shall report to the Board all herds infected with swine brucellosis or suspicious of being infected with swine brucellosis. The Board may demand tests of infected or suspicious swine and the owner shall present them for test and assist with the testing when demanded by the Board.

2. The Board shall quarantine exposed swine and herds suspicious of being infected with swine brucellosis. These quarantines will be released if it is determined that the herd is not infected.

3. No exposed swine or swine under quarantine shall be moved except with a shipping permit for slaughter at a slaughtering establishment where federal inspection is maintained or a market approved to receive quarantined swine for sale to such establishments or return to the herd of origin with a permit.

4. Testing.

a. Swine six months of age and over except barrows shall be eligible for test.

b. Feeding swine isolated from all breeding swine are exempted from test.

c. Blood samples shall be collected by a veterinarian at owner's expense unless the Board or cooperating agency authorizes collection of blood samples at state or federal expense.

d. Swine tested shall be individually identified by a piercing ear tag with the uniform numbering system, a tattoo number, registry number, or other identification acceptable to the Board.

e. Serums from the blood samples, with three copies of the test chart, shall be submitted to an approved laboratory for testing.

5. Reactors shall be quarantined and be identified by an approved reactor tag in the left ear. Reactors should be removed from the premises with a shipping permit within 15 days of identification for slaughter at a slaughtering establishment where federal inspection is maintained or a market approved to receive quarantined swine for sale to such establishments. The time may be extended by cooperating authorities.

6. Infected herds shall be quarantined.

a. The Board shall serve written notice of quarantine on the owner, either personally or by mail addressed to the owner's post office address as on the test chart.

b. Infected herd quarantines will be released when the reactors have been shipped with a permit and slaughtered and all remaining swine six months of age and over except barrows and feeding swine have passed two consecutive negative herd tests. The first negative test to be at least 30 days after slaughter of the reactors and the second negative test not less than 90 days following the first.

c. After removal of reactor swine the premises shall be cleaned and disinfected as directed by the Board.

C. Establishment and maintenance of Validated Brucellosis-Free Herds of Swine.

1. An agreement to comply with these rules shall be signed and filed with the Board by the owner.

2. Validation. When the eligible swine in the breeding herd maintained under agreement have passed a negative test, the herd shall be declared a validated brucellosis-free herd for a period of one year and a Validated Brucellosis-Free Herd Certificate issued by the Board.

a. The validation will be cancelled if:

(1) Additions to the herd are made contrary to C. 3. of this rule. The validation would be reinstated when the entire breeding herd passes a negative test.

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(2) A reactor is disclosed on a herd test or on a test of any swine from the herd. The validation would be reinstated when the infected herd quarantine is released.

3. Swine added to validated herds shall be accompanied by a record of a. origin or b. test and from:

a. A Validated Brucellosis-Free Herd.

b. A breeding herd not under quarantine if the added swine are tested negative on the card test at an approved laboratory within 30 days prior to admission to the validated herd and isolated from all other swine until negative to a retest made at least 60 days after the first test. Bred sows and gilts to have the second test at least 30 days after farrowing.

4. Swine temporarily removed from a validated herd for exhibition or other purposes shall, upon return to the herd, be isolated from other swine until tested negative 30 to 60 days after their return.

5. Revalidation. The herd will be revalidated for a period of one year from the validation date upon a negative herd test of all eligible swine conducted within 10 to 14 months of the validation date, or if it is established that at least 20 percent of the adult breeding swine of the herd were market swine tested during the year and at least one-half of these in the last six months of the year, or that 25 percent of the adult breeding swine (six months of age and over) in the herd are tested every three months (80-100 days) with each breeding animal tested at least once during the year.

D. Establishment and maintenance of Validated Brucellosis-Free Areas.

1. The entire state or any political subdivision of the state may be submitted for validation as determined by cooperating State and Federal authorities.

2. Method of initial validation.

a. All herds selling breeding stock must be validated during a one year period at owner's expense or be revalidated.

b. 90% of all sows, boars and stags slaughtered are to be tested and when reactors are found the herd of origin is to be sent to slaughter within 30 days or tested for brucellosis until the quarantine is released.

(1) All slaughtering establishments slaughtering sows, boars and stags shall allow and cooperate with the Board in collection of necessary swine blood samples.

c. Other methods of validation may be authorized by the Board.

3. Additions to herds in Validated Brucellosis-Free Areas shall be directly from a:

a. Validated Brucellosis-Free Herd.

b. Non-quarantined herd in Validated Brucellosis-Free Area.

c. Non-quarantined herd in areas which are not Validated Brucellosis-Free if the swine have a negative brucellosis card test conducted at an approved laboratory within 30 days prior to the date of entry and are held in isolation after being added to the herd until they have had an additional negative brucellosis card test between 60 and 90 days after the date of entry, and accompanied by a record of such origin or test.

4. Feeding swine may be held on validated herd premises or enter validated areas without brucellosis tests provided the feeding swine are isolated from all breeding swine on the premises.

5. Swine may be consigned to slaughtering establishments or to stockyards approved for sale and shipment to slaughtering establishments for slaughter in a Validated Brucellosis-Free Area without a brucellosis test provided they are transported directly to holding pens at the slaughtering establishment or at the stockyards and are not diverted enroute for any other purpose.

6. Revalidation: When the initial validation period expires, application to USDA for revalidation will be made.

3 MCAR § 2.032 (LSB 32) Control of Mycoplasma in poultry.

A. Definitions.

1. Board shall mean the Minnesota State Livestock Sanitary Board.

2. Person shall mean an individual, firm or corporation.

3. Veterinarian shall mean a veterinarian licensed and accredited in Minnesota.

4. Hatchery shall mean buildings and equipment on one premises operated or controlled for the production of poultry.

5. Poultry shall mean turkeys, chickens and other poultry.

6. Other poultry shall include pheasants, partridges, guinea fowl, quail, and other domesticated fowl or wild fowl maintained in captivity.

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7. Turkeys when used in this rule shall mean and include wild turkeys maintained in captivity.

8. Flock shall mean poultry maintained and segregated as one group of birds on one premises.

9. Products shall mean domesticated fowl and hatching eggs.

10. Hatching egg dealer shall mean a person, firm or corporation in the business of selling, trading or exchanging poultry hatching eggs owned by them or for participating flockowners, independent flockowners or other hatcheries.

11. Primary breeding flock shall mean a flock composed of one or more generations that is maintained for the purpose of establishing, continuing or improving parent lines.

12. Multiplier breeding flock shall mean a flock originating from a primary breeding flock and is intended for the production of hatching eggs used for the purpose of producing progeny for commercial egg or meat production or for other non breeding purposes.

13. Authorized agent shall mean a person not employed by the Board but designated and authorized to perform functions under these rules.

B. General provisions.

1. The Mycoplasma control program shall be administered on a voluntary basis, except as provided in 3 MCAR § 2.032 B. 2, and any flockowner, hatcheryman or hatching egg dealer may participate provided they comply with the following procedures:

a. Files a signed agreement with the Board for participation and complies with these rules.

b. Has not violated the terms of the above signed agreement or these rules resulting in cancellation until such time has elapsed as the Board shall consider sufficient for reinstatement.

c. When more than one hatchery located within the state is operated under the same name, ownership, or management, one or more of these hatcheries shall not participate in the Mycoplasma control program unless all participate and all such hatcheries shall attain and maintain the same disease classifications.

2. No person shall purchase, sell or trade turkey poults under 4 months of age and no person shall purchase, sell or trade turkey hatching eggs unless they originate in and are distributed from flocks, hatcheries or dealers under the supervision of the Board for the control of *Mycoplasma gallisepticum* disease and are classified as Minnesota *Mycoplasma gallisepticum* Tested or of a comparable *Mycoplasma gallisepticum* status.

C. Flock participation requirements.

1. A poultry breeding flock shall not be selected from a flock or flocks having a history of or showing signs of a respiratory infection known to be egg transmitted.

2. When applicable for obtaining a U.S. disease classification under this rule, primary breeding flocks participating in the Mycoplasma control program shall have been tested and found negative for two generations.

3. When applicable for obtaining a U. S. disease classification under this rule, multiplier breeding flocks participating in the Mycoplasma control program shall have originated from tested and clean primary breeding flocks.

4. When a participating turkey flock is recycled and held over for a second or third egg production period, the Board reserves the right to determine if additional annual testing for Mycoplasma is needed to retain its Mycoplasma disease classification(s).

5. All turkeys in the flock, whether or not sampled, shall be identified with an official leg or wing band approved by the Board. The bands or other acceptable identification can be applied at the time the turkey blood samples are collected or at some prior time. All sampled birds in chicken and other poultry flocks shall be identified with an official leg or wing band approved by the Board at the time the samples are collected.

6. Poultry flocks signed up for participation in the Mycoplasma control program shall be raised and managed with special attention to the following:

a. Establish a sound security program restricting movement of unauthorized visitors on the premises.

b. Provide workers with clean footwear and place footbaths in appropriate places.

c. Prevent mechanical disease transmission from outside sources such as vehicles and equipment.

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- d. Establish a work pattern to avoid cross-contamination between flocks.
- e. Dispose of dead birds frequently and properly.
- f. Minimize the presence of free-flying birds.
- g. Keep rodent population, other pests and predators under control.
- h. Keep accurate records of death losses.
- i. Clean and disinfect poultry house before a new flock is placed.
- j. Adopt and maintain a clean egg program.
- k. Seek veterinary assistance when signs of disease occur.

D. Testing provisions.

1. All tests and antigens used in the control of *Mycoplasma* shall be approved by the Board.
2. All poultry signed up for participation under 3 MCAR § 2.032 B. shall be at the minimum testing age described below, provided such age limits may be adjusted with Board approval to avoid conflict with cooperative program changes.
 - a. Turkeys and chickens — over four (4) months of age.
 - b. Other poultry — over four (4) months of age or in some game birds when they reach sexual maturity.
3. Only authorized agents and veterinarians are to collect official blood samples under this rule. The samples shall be submitted to an approved laboratory accompanied by an official test form on which all requested information is recorded. The test form shall be signed by the flockowner under witness and the authorized testing agent.
4. The official test shall be the serum plate test or the standard tube agglutination test with either to be used in conjunction with the HI test.
5. Testing for *Mycoplasma* disease shall be done in accordance with 3 MCAR § 2.032 I. *Mycoplasma gallisepticum* testing schedule, 3 MCAR § 2.032 J. *Mycoplasma synoviae* testing schedule and 3 MCAR § 2.032 K. *Mycoplasma meliagridis* testing schedule. Hatchery owners and flockowners may sign up for participation on a voluntary basis under test schedules 3 MCAR § 2.032 J. and/or 3 MCAR § 2.032 K. provided they meet and follow all other applicable provisions in this rule for the control of *Mycoplasma*, particularly *Mycoplasma gallisepticum*.

6. Flocks in which reactors are disclosed shall be handled in accordance with procedures outlined in 3 MCAR § 2.032 L. Reactors.

7. Positive flocks shall be handled in accordance with 3 MCAR § 2.032 M. positive *Mycoplasma* flocks.

E. Classifications.

1. A Minnesota *Mycoplasma gallisepticum* tested flock is a flock which, when officially tested for *Mycoplasma gallisepticum* in an official laboratory under supervision of the Board, contained no reactors to the *Mycoplasma gallisepticum* antigen, or a suspicious flock that is eventually declared to have no reactors after additional tests and bacteriological examinations are made. The qualifying test shall be made within six (6) months prior to first sale of hatching eggs.

a. The above classification shall not be issued to any flock with clinical signs of *Mycoplasma gallisepticum* infection.

b. Only birds of the same or comparable classification may be added to a Minnesota *Mycoplasma gallisepticum* tested flock.

c. Poultry and hatching eggs originating from Minnesota *Mycoplasma gallisepticum* tested flocks may receive the same classification provided they are handled, hatched and reared separate and apart from other hatching eggs and poultry not so classified.

2. A Minnesota *Mycoplasma gallisepticum* tested hatchery is one operating under the supervision of the Board and with the exceptions provided for in 3 MCAR § 2.032 E.2.a., hatching and handling only eggs and poultry originating from Minnesota *Mycoplasma gallisepticum* tested flocks or from flocks of comparable status.

a. If separate facilities satisfactory to the Board for complete isolation are available, eggs from flocks not under this program or eggs from other species of poultry may be incubated and hatched provided; the products of such eggs are not sold and are maintained in complete segregation from poultry hatched from eggs originating in Minnesota *Mycoplasma gallisepticum* Tested flocks or flocks of comparable status. A thorough cleaning, disinfection and fumigation program shall be conducted on all hatchery equipment prior to setting other eggs.

3. Flock and hatchery classifications signed up for, obtained and maintained under any of the *Mycoplasma* test schedules may be issued under the same provisions as those for *Mycoplasma gallisepticum* naming the specific type or strain of *Mycoplasma* for which the flock was tested and for which the hatchery qualifies.

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F. Participating hatchery and flockowner.

1. The hatchery management shall:

a. Permit inspection of buildings, equipment and poultry products contained therein at any reasonable time by agents of the Board.

b. Maintain identity of hatching eggs as to flock and place of origin.

c. Keep hatchery and incubator room well isolated from battery room.

d. Practice recommended procedures for fumigation of incubators and hatcheries.

e. Use only new egg cases or used egg cases that are clean and have been fumigated between each use.

f. Maintain available and adequate records to show origin of all hatching eggs and destination of poults sold for the current year and one year previous.

2. The flockowner shall:

a. Maintain poultry buildings and premises in a sanitary condition.

b. Permit inspection of flock and premises at any reasonable time by agents of the Board, and submit flock for collection of additional blood samples if deemed necessary.

c. Avoid raising other poultry and farm animals on premises unless well segregated.

d. Report immediately to a disease control official when any respiratory signs appear in the flock.

e. Refrain from using any drug that will mask the results of serological tests or bacteriological recovery of Mycoplasma.

G. Advertising.

1. All advertising using official terminology or any portion thereof referring to the Mycoplasma disease control program shall be submitted to the Board for review and approval. Such advertising shall comply with the following paragraphs:

a. The advertiser shall use only the classification

which the birds, flocks or hatchery have attained under these rules.

b. All advertising shall specify the disease tested for, prefacing the word "Tested" with "Minnesota *Mycoplasma gallisepticum*" or other specific Mycoplasma strains for which the hatchery or flock qualify.

H. Non-participant.

1. Products produced under these rules shall lose their identify when purchased for resale or consigned to a non-participant.

2. A non-participant may not use the official terminology.

1. *Mycoplasma gallisepticum* testing schedule.

Species	Initial Test	To Retain Classification
Turkey		
Primary and Multiplier	10% or minimum of 300 per flock	Keep flock isolated Make one inspection No Mycoplasma infection disclosed
Chicken (egg & meat)		
Primary	*100% or 500 per flock	**5% each 90 days with 500 maximum — 100 minimum
Multiplier	50% with <u>200</u> 300 max.-30 min.	2% each 90 days (<u>300</u> max.-100 or 25 cull chicks each 30 days (bact. exam) or ***100 chick serums each 60 days
Exhibition-game		
Primary	100% or 300 per flock	Same as chicken
Multiplier	Same as chicken	Same as chicken

J. *Mycoplasma synoviae* testing schedule.

1. This test schedule is to be used under a voluntary agreement and is designed mainly to determine if a flock is free of *Mycoplasma synoviae* infection and to provide a

* 100% test to be used on multiplier flocks not originating from clean primary flocks.

** Can be cumulative by testing fewer at more frequent intervals but must total 5% within the 90 days.

*** This monitoring procedure is limited to egg type breeding flocks.

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means whereby available state and/or federal disease classifications can be obtained.

Species	Initial Test	To Retain Classification
Turkey primary	100% or minimum of 500 per flock	10% or minimum of 300 per flock at 32-34 weeks of age
Multiplier	10% or minimum of 300 per flock	and Keep flock isolated Make one inspection No Mycoplasma infection disclosed
Chicken (egg & meat) Primary	*5% 500 max.-30 min.	**3% each 90 days 500 max.-30 min.
Multiplier	1% 100 300 max.-30 min.	1% each 90 days 60 300 max.-30 min.
Exhibition-game Primary	Same as chicken	Same as chicken
Multiplier	Same as chicken	Same as chicken

K. *Mycoplasma meliagridis* testing schedule.

1. This test schedule is to be used for turkey breeding flocks only and is designed mainly to determine if a flock is free of *Mycoplasma meliagridis* infection. Numbers tested at any given time can be adjusted to make this determination in either primary or multiplier flocks.

2. Initial test.

- a. Test 100% or at least 500 per flock.
- b. Use samples submitted for other tests.

3. Monitoring tests.

- a. Test 100% or at least 300 per flock at 28-30 weeks of age or at time of first insemination.
- b. Test 100% or at least 300 per flock at mid-production (approximately 40-42 weeks) or at marketing time or if flock shows respiratory signs.

L. Reactors.

1. Reactors to any of the Mycoplasma tests shall be handled using scheme below to determine if flock is positive or negative. Reactors are designated using HI titres of 1-40 as being significant for *Mycoplasma gallisepticum* and 1-20 for *Mycoplasma synoviae* and *Mycoplasma meliagridis*.

* 5% test to be used on multiplier flocks not originating from clean primary flocks.

** Can be cumulative by testing fewer at more frequent intervals but must total 3% within the 90 days and not less than 30 at one time.

MG Reactors	MS and MM Reactors
At least 5 reactors to laboratory (a) Cultural exam for Mycoplasma (b) Necropsy for air sac lesions (c) Supplemental serology If (a) is positive identify isolate by FAT, GIT or bird inoculation. If isolate is MG, flock is positive. If (a) negative (b) and/or (c) positive 100 sample retest (serology) 100 tracheal swabs (culture) *Additional testing as needed	If reactors are disclosed: Collect 100 blood samples Collect 100 tracheal swabs Resample reactors if possible Run serology and identify any Mycoplasma isolates by FAT, GIT or bird inoculation. If identified as MS or MM flock is positive *Additional testing as needed.

M. Positive Mycoplasma flocks.

1. Flocks participating under the *Mycoplasma gallisepticum* program and designated as positive for *Mycoplasma gallisepticum* shall be handled as follows:

a. Turkey flocks, to include small groups or pairs of wild and fancy type turkeys, shall be placed under quarantine and not used for the production of hatching eggs in order to be in compliance with 3 MCAR § 2.032 B. 2. The quarantine shall remain in effect until the flock is shipped to slaughter under permit or disposed of in a manner satisfactory to the Board.

b. Chicken and other poultry flocks shall be placed under quarantine and it is recommended that they shall not be used for the production of hatching eggs in order for hatchery to maintain its *Mycoplasma gallisepticum* disease classification. The quarantine shall remain in effect until the flock is shipped to slaughter, disposed of in a manner satisfactory to the Board or program participation is discontinued upon request in writing.

2. Flocks participating under the *Mycoplasma synoviae* and/or *Mycoplasma meliagridis* program and designated as positive for *Mycoplasma synoviae*, *Mycoplasma meliagridis* or both shall be handled as follows:

a. Turkey, chicken and other poultry flocks shall be handled in such a manner as to carry out the intent of these two programs by pursuing the following objectives:

(1) Handle flocks designated as positive by not using hatching eggs or practice flock management procedures to avoid hatchery contamination and transmission to other poultry.

(2) Differentiate between *Mycoplasma synoviae* and *Mycoplasma gallisepticum* infection.

* If serology is suspicious for *Mycoplasma gallisepticum* and *Mycoplasma synoviae* and neither is isolated, continue serology and cultural exams until flock is determined to be positive or negative.

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(3) Monitor negative flocks as required.

(4) Keep records on incidence and pattern of both diseases.

(5) Issue Mycoplasma disease classifications when applicable.

Rule as Proposed (All new material)

3 MCAR § 2.024 Control of pseudorabies.

A. Definitions. Official pseudorabies test — a test for the diagnosis of pseudorabies approved by the Board and conducted in a USDA approved laboratory on samples collected and submitted by an accredited veterinarian or a Board approved field test conducted by an accredited veterinarian.

B. General requirements.

1. Veterinarians shall report all cases of pseudorabies they diagnose and all cases suspected of being pseudorabies.

2. All pseudorabies tests will be at owner's expense except tests conducted to release quarantines which may be made by veterinarians of the Board of USDA if personnel and funds are available.

3. All swine tested shall be individually identified by ear tag, tattoo, registration number or other identification acceptable to the Board and the identification entered on the test chart.

4. Quarantines will be established on all swine herds in which reactors are disclosed when tested or in which a clinical or laboratory diagnosis of pseudorabies is made. The quarantine will be served on the owner.

5. Swine from quarantined herds may be moved only to slaughter accompanied by a shipping permit issued by an accredited veterinarian or the Board.

6. Quarantines on swine herds will be released when all quarantined swine have been sold for slaughter or:

a. Reactor swine have been removed from the premises for slaughter with a shipping permit and

b. The premises have been cleaned and disinfected and

c. All swine six months of age and over have passed a negative official pseudorabies test at least 30 days after the reactors were shipped. Following a depopulation, no swine should be allowed on the premises for 30 days.

7. Livestock, other than swine, determined to have pseudorabies and livestock, other than swine, exposed to pseudorabies infected animals will be quarantined. The quarantine will be released 21 days after the diagnosis or exposure if there are no signs of pseudorabies in the quarantined livestock.

C. Establishment and maintenance of Qualified Pseudorabies Negative Swine Herds.

1. An agreement to comply with these rules shall be signed and filed with the Board.

2. A negative official pseudorabies test of all swine in the herd six months of age and over will qualify the herd as a Qualified Pseudorabies Negative Swine Herd provided:

a. The herd has been free of pseudorabies for the previous 12 months.

b. At least 90% of the swine tested have been in the herd at least 90 days. A number Qualified Pseudorabies Negative Swine Herd certificate will be issued the herd owner. The initial certificate will be valid for 90 days.

3. Pseudorabies Negative Swine Herd status will be maintained when a negative official pseudorabies test of not less than 25% of the swine in the herd six months of age and over is conducted within 10 days of 90, 180 and 270 days from and on the anniversary date of initial qualification provided:

a. No swine over six months of age are to be tested twice in one calendar year unless C.3.d. applies.

b. All swine in the herd, six months of age and over, are to be tested at least once in each calendar year.

c. If swine of the herd are maintained on several premises or as several groups, 25% in each should be tested for each requalification.

d. If there are 10 or fewer swine, six months of age or over, in the herd at any quarterly requalification test, all swine six months of age and over are to be tested.

The certificate will then be valid for another 90

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days and for the last quarter of the test year to the anniversary date.

5. Additions to Qualified Pseudorabies Negative Swine Herds shall be either:

a. From a Qualified Pseudorabies Negative Swine Herd.

b. From a herd not known to be pseudorabies infected and with a negative official pseudorabies test within 30 days of entry on all swine added regardless of age. Swine added to be isolated and retested and negative 30-60 days after entry and before being commingled with the qualified herd.

6. Feeder swine on the premises of the Qualified Pseudorabies Negative Swine Herd must be farrowed on the premises or have a negative official pseudorabies test within 30 days prior to entry to the premises or be kept separate from the Qualified Pseudorabies Negative Swine Herd.

7. Qualified Pseudorabies Negative Swine Herd status will be canceled if any swine in the herd react when tested or are diagnosed as having pseudorabies or if additions are made contrary to this rule.

8. Qualified Pseudorabies Negative Swine Herds which have lost status because of test reactors or a diagnosis of pseudorabies in the herd will regain their status when:

a. Reactor swine have been removed for slaughter with a shipping permit and

b. Premises have been cleaned and disinfected and

c. The herd has had two negative pseudorabies tests of all swine in the herd six months of age and over the first at least 30 days after removal of the reactors and the second at least 30 days after the first test.

The infected herd quarantine would be released after the first negative test.

9. Qualified Pseudorabies Negative Swine Herds which have lost status because of additions made contrary to this rule will regain that status when all swine in the herd six months of age and over have had a negative official pseudorabies test.

10. Swine returned to Qualified Pseudorabies Negative Swine Herds from exhibitions or that are otherwise commingled with swine from herds not qualified should be kept in isolation upon return for 30 days and have a negative official pseudorabies test before rejoining the herd.

D. Swine from a Qualified Pseudorabies Negative Swine

Herd will be eligible for entry into Minnesota exhibitions without an official pseudorabies test.

Department of Public Welfare Income Maintenance Bureau Proposed Rule Governing the Surveillance and Utilization Review Program

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in State Office Building, Room 81, Wabasha Street (between Aurora and Fuller), St. Paul, Minnesota, 55155 on December 7, 1978, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to George Beck, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8108 either before the hearing or within 5 working days after the public hearing ends. The Hearing Examiner may extend the written comment period up to 20 calendar days at the hearing.

Proposed Rule 12 MCAR § 2.064 (DPW 64) sets standards for the Surveillance and Utilization Review (SUR) program. The Surveillance and Utilization Review Division is responsible for identifying and investigating inappropriate or exception utilization of services, suspected fraud, and other abusive practices by participants in the Medical Assistance, General Assistance Medical Care, and Catastrophic Health Expense Protection Program programs of the Department of Public Welfare. Through its computer generated exception reports, SUR identifies patterns of provision and utilization of medical services, equipment and supplies which deviate from the norm. SUR then conducts investigations to verify this information and determine if corrective actions are required. SUR is authorized to sanction providers and recipients as appropriate for documented abuse, misutilization, fraud, and violation of federal regulations, state law, or agency rules. SUR has a range of possible sanctions which may be imposed, including recovery of overpayments, suspension, termination, referral for peer review, restriction, and civil or criminal actions.

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Proposed Rule 12 MCAR § 2.064 is divided into several subdivisions. Subdivision A. contains the introduction which explains the scope of the rule and its statutory basis. Subdivision B. contains several definitions of terms used throughout the rule. Subdivision C. explains the purposes for which and the methods whereby records are examined by authorized state agency personnel. Subdivision D. describes the process of identification of potential fraud or abuse through computer based exception reports and by referrals to SUR. Subdivision E. explains the investigation process. Subdivision F. outlines the reasons for which sanctions may be imposed against providers or recipients in the programs. The range of sanctions available to SUR and the process to be used in imposing sanctions are contained in Subdivision G. Subdivision H. outlines the appeal process available to participants in the programs.

Copies of the proposed rule are now available and one free copy may be obtained by writing to Irene Goldman, Department of Public Welfare, 690 North Robert, St. Paul, Minnesota 55164. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Minn. Stat. §§ 256B.04, subd. 10; 256D.03, subd. 3; and 62E.53, subd. 3.

Notice is hereby given that 25 days prior to the hearing a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes

attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions at Minn. Stat. § 10A.01, subd. 11. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone (612) 296-5615.

Edward J. Dirkswager, Jr.
Commissioner

Rule as Proposed

12 MCAR § 2.064 Surveillance and utilization review.

A. Introduction.

1. This rule governs procedures to be used by the Surveillance and Utilization Review (SUR) Division, Minnesota Department of Public Welfare, in the identification and investigation of exceptional utilization, suspected fraud, or abuse by participants in the Minnesota Medical Assistance (MA) program, the General Assistance Medical Care (GAMC) program, and/or the Catastrophic Health Expense Protection Program (CHEPP).

2. The provisions of this rule are to be read in conjunction with Titles XVIII and XIX of the federal Social Security Act, Title 42 of the Code of Federal Regulations, Minn. Stat. chs. 62E, 256, 256B, 256D, and 609, and other rules of the Minnesota Department of Public Welfare which is the state agency responsible for the administration of the MA, GAMC and CHEPP programs in Minnesota.

3. The Commissioner of Public Welfare may issue instructional bulletins and manual material to the local welfare agencies and to providers of medical care to clarify and implement the provisions of this rule, and may prescribe forms to be used in administration of the programs.

4. This rule is binding on all county welfare boards (hereinafter referred to as local welfare agencies) in the State of Minnesota administering the programs, on all providers of medical care participating in the programs, on all applicants/recipients under the programs, and on the state agency.

B. Definitions.

1. "Abuse" — situations or practices in which:

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- a. the elements of fraud are not present or provable;
 - b. the elements of fraud are present but cannot be prosecuted;
 - c. there are unusual patterns of providing or obtaining medical care;
 - d. a provider fails to use generally accepted accounting principles.
2. "Commissioner" — the Commissioner of Public Welfare or his designee.
 3. "Exceptional Utilization" — provision or receipt of medical care by or to a participant which is determined by DPW to be two standard deviations from the mean.
 4. "Medicaid Management Information System (MMIS)" — a centralized automated processing and payment system designed by the U.S. Department of Health, Education, and Welfare and implemented in Minnesota to improve the capability of the state agency to administer its Title XIX program more efficiently and effectively. Local welfare agencies may arrange to have DPW process CHEPP and GAMC claims by the MMIS.
 5. "Medical care" — medical services, equipment and supplies furnished by a provider.
 6. "Medical records" — written documentation of the nature and extent of medical care provided to recipients of MA, GAMC and/or CHEPP. Such medical records shall include documents containing the following information:
 - a. identification of recipient;
 - b. dates of service;
 - c. identification of individual who ordered the medical care;
 - d. identification and title of individual(s) who provided the medical care on each service date;
 - e. full description including quantity of all medical care provided;
 - f. progress notes, diagnoses and any other documentation made regarding the medical care furnished this recipient;
 - g. documentation of any supervision or collaboration between health professionals;
 - h. all results for tests or examinations provided.
 7. "Participant" — a recipient or provider.
 8. "The programs" — The Title XIX or MA program, the GAMC program, and/or CHEPP.
 9. "Provider" — an individual, organization, or institution enrolled to provide medical care under any of the programs.
 10. "Recipient" — an individual who is eligible for or receives medical care paid for by MA, GAMC and/or CHEPP.
 11. "Records" — documentation, pertaining to the medical care furnished recipients by a provider, which indicates the nature and extent, acquisition costs, charges, and medical necessity of such medical care. The term includes medical records, purchase invoices, accounting records, bills, contracts, written evidence of usual and customary charges, procedure code lists, and clothing and personal needs allowance accounts.
 12. "State agency" — Minnesota Department of Public Welfare (DPW)
 13. "Surveillance and Utilization Review (SUR)" — a unit of DPW designed to monitor the utilization of the programs by its participants. SUR identifies and investigates the appropriateness of medical care, possible misutilization of medical care, billing and reimbursement errors, and fraud and abuse by program participants.
 14. "SUR Director" — Director of the SUR Division or his designee.
 15. "Suspension from participation" — ineligibility for participation in the programs for a stated period of time.
 16. "Suspension of payments" — the withholding of all payments due a provider until resolution of the matter in dispute between the provider and the state agency.
 17. "Termination from participation" — permanent exclusion from participation in the programs.
 18. "Withholding of payments" — a reduction or adjustment of the amounts paid to a provider on pending and subsequently submitted bills for purposes of offsetting overpayments previously made to the provider.
- C. Records.
1. Providers shall grant authorized state agency personnel access to review or reproduce all records necessary to fully discover the nature and extent of medical care and the medical necessity for such medical care provided to recipients under the programs.

PROPOSED RULES

2. Providers shall grant authorized state agency personnel access to review and reproduce invoices and billings. Such information shall be requested in order that the state agency can ensure that the programs are not charged more than the provider's usual and customary fee to private pay patients for the same or comparable medical care.

3. Prior to reviewing medical records, the state agency shall obtain the written consent of the recipient. When reviewing medical records, state agency personnel shall fully comply with applicable provisions of state law governing data privacy.

4. In the event a provider is terminated or withdraws from any or all programs, all records developed during participation in the programs shall remain subject to state agency review. In the event of a change of ownership, all records generated prior to and subsequent to the change shall remain available for review by authorized agency personnel.

5. Providers shall, where possible, be given advance notice of SUR intent to review records. However, the state agency shall be authorized to make unannounced record reviews.

6. State agency personnel shall be granted immediate access to records upon presentation of SUR identification cards provided that unnecessary disruption of a provider's business is avoided.

7. Access to review and reproduce records of deceased persons, persons whom the state agency was unable to contact by registered mail, and persons who were but currently are not eligible for the programs shall be permitted upon request.

8. Providers shall maintain all records for at least five years.

D. Identification of potential fraud or abuse.

1. SUR shall develop information through its computer-based exception reporting system. Data shall be obtained from the history of claims paid for medical care provided under the programs. Data shall be organized to present a summary profile of medical care delivery and acquisition patterns by providers and recipients. The technique of computer exception reporting specifically involves:

a. maintaining data on the activities and characteris-

tics of providers and recipients obtained from submitted and paid claims and from provider enrollment forms;

b. classifying providers and recipients into peer groups according to demography, medical characteristics and professional specialty;

c. developing a statistical profile of each peer group classification to be used as a base line for evaluation;

d. developing a statistical profile, compatible with the peer group profile, of each individual provider and recipient;

e. evaluating each individual provider and recipient profile against its appropriate peer group profile;

f. reporting all individual providers and recipients who deviate significantly from their peer group norm.

2. Reports produced by SUR computer processing include but are not limited to the following:

a. Management Summary Reports which present a statistical profile of peer groupings of providers and recipients;

b. Treatment Analysis Reports which present summary and detailed profiles of medical care rendered by each enrolled hospital and physician in response to specific diagnoses.

c. Claim Detail Reports which present detailed records of each claim line item paid for each individual provider and recipient.

d. Summary Profile Reports which present, for each individual provider and recipient, data on utilization patterns. Summary Profile Reports provide a summary picture, covering a period of up to fifteen months, of utilization patterns of individual providers and recipients. Such reports provide preliminary identification of providers and recipients who are exceptional utilizers of the programs and the specific area(s) of exceptional utilization which may require further investigation.

3. Referrals of specific participants in the programs are made to the SUR Division for review, analysis and investigation to determine the existence of potential fraud or abuse, or inappropriate provision or utilization of medical care. Referral sources include but are not limited to:

a. units of local, state, and federal government;

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b. providers, professional associations, health professionals, and peer review;

c. professional standards review organizations (PSROs);

d. health insurance carriers;

e. citizens.

E. Investigation of potential fraud or abuse.

1. An investigation of a program participant shall be undertaken for the purposes of explaining a participant's exceptional utilization of the programs, documenting abusive or fraudulent practices of a participant, or determining whether sufficient evidence can be developed to support civil or criminal legal action. An investigation may also be conducted as a routine audit to verify a participant's compliance with federal, state and local agency regulations, statutes, rules, and policies. The state agency shall determine whether an investigation is to be conducted, and the priority of such investigation by taking into account factors including:

a. nature, validity and extent of referral source information;

b. the extent and nature of exceptional utilization of the programs as indicated on SUR computer reports;

c. apparent violations of applicable policies, rules, statutes and regulations;

d. possible harm to a person from delay of the investigation; and/or

e. amount of public funds potentially involved.

2. An investigation includes but is not limited to:

a. review and analysis of the provider's pattern of practice as indicated by SUR computer reports and the claims submitted by the provider;

b. identification and analysis of participant records;

c. analysis of any equipment, stock, materials, or other items utilized in or for the treatment of program participants;

d. interviews with participants, their associates, and employees;

e. verification with the recipient that medical care billed to the programs was actually provided;

f. verification that the programs are not charged more by providers of medical care than their usual and customary fee to non-recipients for the same or comparable medical care;

g. verification of the professional credentials of providers, their associates and employees, including licensure, certification and registration;

h. verification of prescriptions; and

i. verification of the medical necessity of medical care.

F. Grounds for sanctions.

1. Sanctions may be imposed by the state agency against a provider for any one or more of the following reasons:

a. proven violation of any provision of applicable federal or state program statutes or any rule or regulation promulgated pursuant thereto;

b. conviction for fraud, theft, or misrepresentation;

c. indictment or presentment of criminal charges against the provider;

d. suspension or termination from participation in another governmental program such as Medicare, Worker's Compensation, or Crippled Children's Services;

e. proven violation of any laws, regulations, or codes of ethics governing the conduct of a provider's occupation or profession; or being reprimanded or censured by a provider's peers;

f. presenting or causing to be presented for payment any duplicate billings or any false or fraudulent cost report, rate application, or claim information for the purpose of obtaining greater compensation than that to which the provider is legally entitled;

g. submitting or causing to be submitted false information or concealing information for the purpose of obtaining or maintaining eligible provider status in the programs or meeting prior authorization requirements;

h. diverting funds from a recipient's personal account, i.e. clothing, personal needs, trust accounts;

i. failing to make available to the state agency all records reasonably requested;

j. failing to maintain adequate documentation of the

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medical care provided and the medical necessity of such medical care;

k. billing the state agency at a higher rate than the usual and customary fee billed to private pay patients for the same or equivalent services;

l. failing to repay within a reasonable time identified overpayments or erroneous payments after receiving notice from the state agency; and

m. making arrangements, including those with employees, independent contractors, suppliers, or others, which have the effect of overcharging the programs or concealing illegal profits e.g. billing or accepting commissions, split fees, rebates, referral fees, kickbacks, bribes; causing receipt of medical care not required or requested by the recipient; billing for medical care provided by non-qualified individuals; charging to the programs costs which resulted from nonprogram activities, other enterprises or personal expenses.

2. Sanctions may be imposed by the state agency against a recipient for any one or more of the following reasons:

a. altering or duplicating the MA identification card in any manner;

b. lending the MA identification card to a person not named on the card's face as an eligible recipient, which person in turn uses the card to obtain medical care;

c. using an MA identification card that belongs to another person;

d. using the MA identification card to assist or allow another person to obtain medical care for which the programs are billed;

e. duplicating or altering prescriptions;

f. misrepresenting physical symptoms for the purpose of obtaining equipment, supplies or drugs;

g. furnishing incorrect eligibility status or information to a provider;

h. furnishing false information to a provider in connection with medical care previously rendered which the recipient has obtained and for which the programs have been billed;

i. knowingly obtaining medical care in excess of established program limitations, or obtaining medical care which is clearly not medically necessary;

j. otherwise obtaining medical care by false pretenses.

G. Sanctions.

1. Notice of intended sanctions; opportunity to respond.

a. Participants shall be notified in writing by the state agency of any sanction it intends to impose. The notice shall be mailed twenty days prior to the effective date of the sanction, provided that the state agency may suspend payment to a provider from the date the notice is mailed. The notice shall state:

(1) the factual basis for alleging discrepancies or violations;

(2) the dollar value to such discrepancies or violations;

(3) the method of computing such dollar value;

(4) further actions to be taken or sanctions to be imposed by the state agency;

(5) any actions required of the participant;

(6) the right to dispute the agency's factual allegations, pursuant to section G. 1. b. prior to the decision to suspend or terminate from participation; and

(7) the right to appeal the suspension or termination from participation pursuant to subdivision H. of this rule.

b. A participant who disagrees with any factual allegations of the notification of violation shall submit to the Commissioner a letter outlining points in dispute prior to the date of any proposed action or sanction. The Commissioner or his designee shall be available to discuss points in dispute with the participant within ten days of receipt of the participant's letter.

2. Sanctions against providers.

a. The following sanctions may be invoked against providers based on the grounds specified in subdivision F. 1:

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(1) informing the provider, in writing, of any changes required, the basis for requiring the changes, and the date by which the changes are to be accomplished;

(2) recovery, by receipt of check or by debiting from future warrants, of any overpayments or payments improperly received by providers;

(3) referral of data obtained from medical and other records, claims, and SUR reports, to any professional review committee, professional licensing board, or court to the extent permitted by state law;

(4) suspension or withholding of payments to a provider;

(5) suspension of participation in the programs;

(6) termination of participation in the programs;

(7) transfer to a provider agreement of limited duration not to exceed twelve months.

b. The decision as to the sanction to be imposed against a provider shall be at the discretion of the Commissioner except as follows: where a provider has been convicted of defrauding the programs, or has been previously suspended due to program abuse, or has been terminated from any of the programs for abuse, the state agency shall institute proceedings to terminate the provider from the programs.

The following factors may be considered in determining the sanction(s) to be imposed:

(1) nature and extent of offenses or violations;

(2) history of prior violations;

(3) provider willingness to obey program rules; and

(4) actions taken or recommended by peer review groups or licensing boards.

c. Sanctionable conduct may be imputed to an affiliate such as a person, clinic, group, corporation or other association with whom the provider furnishes medical care, provided the affiliate had responsibility for or knowledge of the sanctionable conduct.

d. Suspension or termination from participation of any provider shall preclude such provider from submitting claims for payment, either personally or through claims submitted by any clinic, group, corporation or other association for any medical care provided under the programs, except for medical care provided prior to the suspension or termination.

e. No clinic, group, corporation or other association which is a provider of services shall submit claims for payment for any medical care provided by a person within such organizations who has been suspended or terminated from participation in the programs except for medical care provided prior to the suspension or termination.

f. When a provider has been sanctioned, the state agency shall notify the appropriate professional society, Board of Registration or Licensure, and Federal or State agencies of the findings made, the sanctions imposed, and the results of any subsequent appeal.

g. To the extent that federal law or regulation mandates sanctions against participants which conflict with provisions of this rule, such federal law or regulation shall prevail.

3. Sanctions against recipients.

a. The following sanctions may be invoked against recipients based on the grounds specified in subdivision F. 2:

(1) informing the recipient in writing of any changes required, the reasons these changes are required, and the date by which the changes must be made;

(2) referring the recipient for appropriate health counseling in order to correct inappropriate utilization of medical care;

(3) restricting participation in a program to receiving medically necessary medical care from particular providers whom the recipient selects, when SUR has documented the recipient's pattern of abuse of a program. The restriction shall be for a specified period of time. Reimbursement shall be limited to those particular providers whom the recipient has chosen, except as follows:

(a) emergency services may be provided to the recipient by another provider if that provider attaches to the invoice an explanation of the emergency circumstances;

(b) the restricted recipient may be referred by his chosen provider for specialized treatment from another provider if a copy of the written referral is sent to the SUR Division;

(4) recovery from recipients of all amounts paid by the programs for any of the reasons cited in F. 2.,

(5) terminating participation in a program for any of the following reasons:

(a) refusal of MA recipient to sign a consent for release of records;

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(b) refusal to comply with the restriction program; and

(c) conviction of defrauding a program.

H. Appeal.

1. A provider may appeal the state agency's suspension or termination of his/her participation pursuant to the provisions of Minn. Stat. ch. 15 pertaining to contested cases. An appeal shall be considered timely if a written notice of appeal is received by the Commissioner within twenty days of the imposition of the suspension or termination.

2. A recipient may appeal any sanction imposed by the state agency pursuant to Minn. Stat. ch. 256.

3. In connection with any appeal hearing the state agency shall have the power to issue subpoenas for witnesses and compel their attendance and production of papers and writings.

4. If the state agency causes a civil or criminal legal action to be commenced against a provider, the agency shall not be required to comply with this section prior to the disposition of such action by the courts.

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STATE CONTRACTS

Pursuant to the provisions of Laws of 1978, ch. 480, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Administration Office of the State Register

Notice of Availability of Contract for Conversion of Materials to Machine Readable Form

The Office of the State Register requires the services of a word-processing company to convert 7,000 pages of the *Minnesota Code of Agency Rules* (MCAR) into machine readable format. The result of the project will be the production of CPT magnetic tapes containing the material.

The estimated cost of the project will be under \$25,000, with work commencing December 1, 1978, and with the project completed by June 1, 1979.

Copies of the Request for Proposals are available from the Office of the State Register by contacting Mr. Stephen Ordahl, Manager, Office of the State Register, Suite 415 Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102. All proposals are due in the Office of the State Register by no later than 4:30 p.m. on November 20, 1978.

Department of Health Family Planning Unit

Notice of Request for Proposals for Provision of Pre-pregnancy Family Planning Services

The Minnesota Department of Health is requesting proposals from cities, counties, groups of cities or counties and nonprofit corporations for provision of pre-pregnancy family planning services. Proposals must be submitted to the Minnesota Department of Health no later than 4:30 p.m. on December 15, 1978.

Interested persons may obtain a Request For Proposal and further instructions by submitting a written request to:

Judi Kapuscinski, Supervisor
Family Planning Unit
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, MN 55440



The Grimm Farm in Carver Park Reserve is significant in agricultural history. The two-story brick house was built in 1876 by German immigrant Wendelin Grimm. Grimm developed winter-hardy alfalfa from a bag of German perennial alfalfa seeds he called "ewiger klee" — everlasting clover. Grimm Alfalfa became one of the state's main contributions to American agriculture. (Drawing by Judy Dale Galchutt, courtesy of Hennepin County Park Reserve District)

Housing Finance Agency Notice of Request for Proposals for Private Mortgage Insurance

The Minnesota Housing Finance Agency is seeking proposals for professional and technical services to be performed in connection with the Agency's Affordable Home Mortgage Program. The services to be performed include review of each mortgage loan file submitted by institutional lenders for purchase by the Agency to assure that the documentation is complete and that the loan complies with the Agency's underwriting standards and eligibility requirements. After review, the loan files will be submitted to the Agency for its final decision as to purchase.

Implementation of these services as expeditiously as possible after selection of a contractor is desirable.

General inquiries and proposals should be directed to:

Ms. Gail L. Vetter, Director
Home Improvement and Mortgage Loan Programs
Minnesota Housing Finance Agency
333 Sibley Street, Nalpak Building — Suite 200
St. Paul, Minnesota 55101
(612) 296-9813

Proposals should be submitted to the Agency by 4:30 p.m., November 20, 1978.

Metropolitan Council Notice of Availability of Contract for Preliminary Studies to Develop a Goods Movement Plan for the Twin Cities Metropolitan Area

The Metropolitan Council intends to engage the services of a qualified consultant to assist in conducting the preliminary portions of a Goods Movement Study for the development of a Goods Movement Plan for the Metropolitan Area.

Assistance is needed to: summarize freight movement data; prepare a work program for an inventory of truck travel in the seven-county area; prepare a truck sampling procedure and select a truck sample for the seven-county region; and prepare a truck travel data interview form for the proposed 1979 truck survey and pretest it.

It is estimated that the cost of this study will be no more than \$30,000. Qualified consultants interested in receiving a "Request for Proposal" for the proposed services should contact:

Deane Wenger
Transportation Planning Division
Metropolitan Council
300 Metro Square Building
7th & Robert Street
St. Paul, Minnesota 55101
Phone: (612) 291-6338

Final submission date is Monday, December 4, 1978.

Department of Public Welfare Minnesota Board on Aging Notice of Availability of Contract for Dental-Epidemiology Consultant for Senior Citizens' Dental Program

The Department of Public Welfare/Board on Aging is seeking a consultant to review and analyze all dental service information collected by the Pilot Dental Care Program for Senior Citizens. The product of such work will be written reports, based upon computer analyses, to be analytical and predictive in nature. Such reports will be used for program evaluation and legislative recommendations.

Experience in dentistry and epidemiology is required.

Project funding maximum is \$8,000.

Final submission date: November 27, 1978.

Inquiries and formal expressions of interest should be directed to:

Janet A. Yellowitz, Director
Pilot Dental Care Program for Senior Citizens
Department of Public Welfare/Board on Aging
204 Metro Square
St. Paul, MN 55101
(612) 296-0379

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Commerce Securities Division

Notice of Public Hearings Concerning Amendment of Rules Governing Common Stock Offerings

Notice is hereby given that the Securities Division will hold public hearings on November 30, 1978 at 9 a.m.—2 p.m.; and on December 1, 1978 at 9:00 a.m.—4:00 p.m., in the Commerce Hearing Room, 500 Metro Square Building, St. Paul, Minnesota.

The purpose of the hearings is to consider revisions in the rules relating to initial registration of common stock offerings and their continuing registration, including changes to SDiv 2029 through 2041.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Department of Commerce
Securities Division, Securities Rules
500 Metro Square Building
St. Paul, Minnesota 55101

October 30, 1978

Thomas E. Collins
Securities Division
Department of Commerce



It's not too late to take advantage of the bikeways, as cyclists ride out to see the brilliant fall colors. There are more than 400 bikeways in Minnesota, with hundreds more being planned. More than 50 percent of all bikers in the state are under 16, but increasing numbers of adults are starting to ride for recreation, exercise and energy conservation. (Drawing by Jolly Roberts, courtesy of Department of Transportation)

Department of Labor and Industry Prevailing Wage Division Notice of Prevailing Wage Rates for Building Construction

Minn. Stat. § 177.44 requires the Commissioner of Labor and Industry to certify at least once a year, the prevailing wage rates for building construction under contracts based on bids as provided for in Minn. Stat. § 161.32. Title 8, Minnesota Code of Agency Rules, Section 1.8010 (8 MCAR § 1.8010) requires notice of those certifications to be published in the *State Register*.

On October 30, 1978, the Commissioner certified wage rates for building construction for all 87 counties in Minnesota.

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A copy of the determined wage rates may be obtained by writing to the Department of Labor and Industry, Prevailing Wage Division, 444 Lafayette Road, St. Paul, Minnesota 55101.

A check or money order for \$15.00, payable to the Department of Labor and Industry, must accompany each request to cover the cost of copying and mailing.

November 6, 1978

Minnesota State Agriculture Society Meeting Notice

The Board of Managers of the Minnesota State Agricultural Society, governing body for the State Fair, will meet at 10 a.m. on Nov. 17 in the Administration Building on the Fairgrounds, Falcon Heights.

Minnesota State Retirement System Regular Meeting, Board of Directors

Regular quarterly meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, November 17, 1978, at 9:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Department of Public Service Public Service Commission Notice of Intent to Solicit Outside Opinion Concerning a Proposed Rule Relating to Utilities Access to Customer Premises

Notice is hereby given that the Minnesota Public Service Commission is considering adoption of a rule which would regulate circumstances under which utility representatives may enter customer premises.

The proposed rule is authorized by Minn. Stat. § 216B.09 (1976), which allows the commission to estab-

lish reasonable standards, regulations, or practices to be observed and followed by public utilities with respect to the service which they furnish. The proposed rule would regulate the conditions under which utility representatives may enter customer premises under three circumstances:

1. Without judicial or customer authority,
2. With judicial but without customer authority,
3. Without judicial authority but with customer authority.

All interested or affected persons or groups may submit information on this subject. Written or oral information and comment should be addressed to:

Mr. Leo J. Ambrose
Secretary, Minnesota Public Service
Commission
Seventh Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

All statements of information and comment must be received by January 15, 1979. Any written material received by this date will become part of the record of any rules hearing held on this subject.

October 26, 1978

By order of the Commission

Leo J. Ambrose
Secretary

Notice of Intent to Solicit Outside Opinion Concerning the Adoption of Rules Relating to Rate Change Filing Requirements for Telephone Utilities

Notice is hereby given that the Minnesota Public Service Commission is considering the adoption of rules regarding rate change filing requirements for telephone utilities. The rules would include the procedures that telephone utilities must follow when filing a rate change, the information that the department or commission will require for determining reasonableness of the proposed change and finally, the methods and procedures for refunding. An initial draft is available upon written request and receipt of a check payable to "Public Service Commission" in the amount of \$2.75.

OFFICIAL NOTICES

All interested and affected persons or groups may submit information on this subject. Written or oral information and comment should be addressed to:

Mr. Leo J. Ambrose, Secretary
Minnesota Public Service Commission
790 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101
(612) 296-7526

All statements of information and comment must be received by December 4, 1978. Any written material received by this date will become part of the record of any rules hearing held on this subject.

By Order of the Commission

Leo J. Ambrose
Secretary

Pollution Control Agency Water Quality Division

Notice of Application by City of Buffalo for National Pollutant Discharge Elimination System (NPDES) and State Disposal System (SDS) Permit for Municipal Wastewater Treatment Facility

Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that a public hearing concerning the above-entitled matter will be held by the Minnesota Pollution Control Agency (MPCA) pursuant to Minn. Stat. § 115.03, subd. 1(h) (1976) and Minn. Rule WPC 36(k) on December 18, 1978, at the Public Safety Building (Fire Hall), 216 Central Avenue, Buffalo, Minnesota, commencing at 1:00 p.m. An evening session will be held commencing at 7:00 p.m., also on December 18, 1978, at the Public Safety Building (Fire Hall), 216 Central Avenue, Buffalo, Minnesota, in order to provide an opportunity to speak to those who cannot attend the day session. If necessary, the hearing shall be continued at 9:30 a.m. on Tuesday, December 19, 1978, at the Public

Safety Building (Fire Hall), 216 Central Avenue, Buffalo, Minnesota.

The purpose of the hearing will be to consider the objections of residents of Hanover, Minnesota, and others to the City of Buffalo's application to the Minnesota Pollution Control Agency for an NPDES and State Disposal System permit. The public notice for the NPDES and State Disposal System permit, MN 0040649, was issued on April 10, 1978, in accordance with the provisions of the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, *et seq.*; Minn. Stat. chs. 115 and 116; and Minn. Rule WPC 36.

The issues that will be considered at the hearing are: (1) the appropriateness of the proposed location of the discharge of the City of Buffalo's proposed Wastewater Treatment Facility to the North Fork of the Crow River pursuant to Proposed NPDES and SDS Permit No. MN 0040649; (2) the potential effects of the discharge on the water quality of the waters receiving the discharge; (3) the appropriateness of the chosen treatment and disposal methods; and (4) the potential impacts of sludge disposal on groundwaters and surface waters.

Please be advised that these issues may, without further notice, be modified and/or amended by the Hearing Examiner following a prehearing conference. The prehearing conference will be held on Wednesday, November 29, 1978, at 10:30 a.m. in Meeting Room A, the Court House, 10-2nd Street N.W., Buffalo, Minnesota.

In accordance with Federal and State Law, the Minnesota Pollution Control Agency proposes to issue an NPDES and State Disposal System permit for this facility. The permit will be issued for a term of approximately two years.

The determination to issue the permit is tentative. Interested persons are invited to submit written comments to the MPCA in regard to the proposed permit. Comments should be submitted in person or by mail by December 14, 1978. These comments should be delivered or mailed to:

Ms. Maggie Lindberg
Permits Section
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113

The number PCA-79-002-WS should appear next to the above address on the envelope and on each page of any submitted comments. Any written comments received will be offered to the Hearing Examiner as part of the hearing record.

The application, proposed permit, fact sheet, comments

OFFICIAL NOTICES

received and other documents may be inspected and copied, at the address noted above, any time between 9:30 and 3:30 p.m., Monday through Friday. A copy of the fact sheet or draft permit will be mailed to any interested person upon written request. Further information regarding the application or proposed permit may be obtained by contacting Ms. Maggie Lindberg at the above address. A Regional Office of the Minnesota Pollution Control Agency is located at 615 Oak Street, Brainerd, Minnesota 56401 ([218] 828-2492), where information may also be obtained concerning the application and proposed permit.

The hearing will be held before Mr. William Seltzer, 1745 University Avenue, St. Paul, Minnesota 55104 ([612] 296-8105), a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented throughout the proceeding by legal counsel, by themselves, or by a person of their choice (if such representation is not otherwise prohibited as the unauthorized practice of law). The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. §§ 15.0411 through 15.042, 9 MCAR §§ 2.201-2.299 and MPCA Rules of Procedure 1 through 13, to the extent that the latter rules do not conflict with 9 MCAR §§ 2.201-2.299. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Lisa R. Tiegel, Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota 55113 ([612] 296-7708).

Any person who desires to become a party to this case must submit a timely petition to intervene to the Hearing Examiner, pursuant to 9 MCAR § 2.210, showing how that person's legal rights, duties, and privileges may be affected by the decision in this case. The petition must also set forth the grounds and purpose for which intervention is sought. A party to a case has the right to present evidence and argument with respect to the issues and to cross-examine witnesses. Interested persons may present oral or written statements at the hearing without becoming parties, but may not cross-examine witnesses.

Any person desiring to intervene as a party must submit to the Hearing Examiner and serve upon all existing parties a Petition to Intervene by December 8, 1978. At the present time the representatives of parties to this proceeding who should be served with such Petition to Intervene are:

Mr. Roger Tesch
Attorney for the City of Buffalo
18 East Division Street
Buffalo, MN 55313

Ms. Lisa R. Tiegel
Attorney for MPCA Staff
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, MN 55113
(612) 296-7708

All persons are advised that, if they intend to appear as parties at the hearing scheduled for December 18, 1978, at 1:00 p.m., the Notice of Appearance form enclosed with this Order must be completed and returned to the Hearing Examiner within 20 days of the date of service of the Notice of and Order for Hearing. Should a party fail to appear at the hearing, the allegations made in this order may be taken as true, or the issues set out may be deemed proved, with the consequence that the proposed permit may be issued in its present form.

The above-cited procedural rules are available at the office of Hearing Examiners and the Minnesota Pollution Control Agency or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, St. Paul, Minnesota 55155 ([612] 296-2874). The rules provide generally for the procedural rights of the parties. Further, parties may be entitled, pursuant to Minn. Stat. § 115.03, subd. 2 (1976), to issuance of subpoenas requiring the attendance and testimony of witnesses and the production of documents relevant to any matter involved in the hearing.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least five days prior to the hearing. A copy of the request must be served on the agency and any other parties.

October 30, 1978

Sandra S. Gardebring
Executive Director

OFFICIAL NOTICES

STATE OF MINNESOTA
COUNTY OF RAMSEY

MINNESOTA POLLUTION
CONTROL AGENCY
PCA-79-002-WS

In the Matter of the Application by
the City of Buffalo for National
Pollutant Discharge Elimination System
(NPDES) and State Disposal System (SDS)
Permit for the Municipal Wastewater
Treatment Facility

NOTICE OF APPEARANCE

Date of Hearing: _____
Name and Telephone Number of Hearing Examiner: William Seltzer
(612) 296-8105

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the
above-entitled hearing.

Name of Party: _____
Address: _____
Telephone Number: _____
Party's Attorney or Other Representative: _____
Office Address: _____
Telephone Number: _____
Signature of Party or Attorney: _____
Date: _____

NOTE: This Notice of Appearance should only be submitted by per-
sons who have been admitted as parties after filing a Petition to
Intervene. Interested persons who wish to make statements without
becoming parties need not submit this Notice.

Water Resources Board

Notice of Hearing Pertaining to the Buffalo-Red River Watershed District

The Minnesota Water Resources Board gives notice that it will hold a hearing on Tuesday, November 21, 1978, beginning at 9:30 a.m., Central Standard Time, in the Norwegian Grove Town Hall, Otter Tail County, Pelican Rapids, Minnesota, 56572, which building is located in the northwest corner of the northwest quarter of Section 15, Township 136 North, Range 44 West, on the east side of Otter Tail County Road No. 21, three miles north on County Road No. 21 from the junction of Otter Tail County Road No. 21 and State Highway No. 108, which junction is about 7½ miles west of the City of Pelican Rapids on State Highway No. 108.

The hearing is concerned with a petition of certain land owners to remove certain parcels of land from the territory of the Buffalo-Red River Watershed District, Barnesville, Minnesota, 56514. The Board's notice of hearing is being published in the following newspapers: *Detroit Lakes Tribune*, Becker County; *The Fargo Forum*, Clay County;

Daily News, Wahpeton, N.D. Wilkin County; and *Pelican Rapids Press*, Otter Tail County.

October 25, 1978

Errata

1. At 3 S.R. 867, Rule WPC 34 E.3.c.1.(i) should read: "In the case of a sanitary sewer system being tributary to sewerage facilities which are on the ~~project list~~ Municipal Project List for funding but which the EPA will not fund until an infiltration/inflow analysis, and where required, a sewer system evaluation survey has been performed, this sewer system project ~~may~~ shall be awarded by the Director an equal number of priority points as the project on the ~~project list~~ Municipal Project List."

2. At 3 S.R. 868, in Rule WPC 34 E.3.c.(2), the asterisks in TABLE II and TABLE III should be struck out.

3. At 3 S.R. 809, the first paragraph of 2 MCAR § 1.6105 should read: "**Submission of final plans.** The final plan shall be submitted to the Department of Administration and the Department of Public Service before December 15, 1979, and shall include the following information:"

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

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408 St. Peter Street
St. Paul, Minnesota 55102
(612) 296-8239

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